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Standing Committee on Justice Policy

Safer Ontario Act, 2018

Comité permanent de la justice

Loi de 2018
pour plus de sécurité en Ontario

2nd Session
41st Parliament

Thursday 1 March 2018

2^e session
41^e législature

Jeudi 1^{er} mars 2018

Chair: Shafiq Qaadri
Clerk: Christopher Tyrell

Président : Shafiq Qaadri
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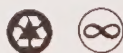
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CONTENTS

Thursday 1 March 2018

Safer Ontario Act, 2018, Bill 175, Mme Lalonde / Loi de 2018 pour plus de sécurité en Ontario, projet de loi 175, Mme Lalonde.....	JP-685
Mr. Kent Roach.....	JP-685
Ontario Association of Chiefs of Police.....	JP-687
Mr. Bryan Larkin	
Mr. Ian Scott	JP-689
London Police Services Board	JP-692
Ms. Susan Toth	
Mr. Jesse Helmer	
Region of Peel.....	JP-695
Mr. Michael Palleschi	
Mr. David Lee	JP-697
Municipality of North Grenville	JP-699
Mr. Brian Carré	
Mr. Don Sherritt	
Ms. Samiah Ibrahim	JP-701
Eastern Ontario Wardens' Caucus	JP-704
Ms. Robin Jones	
Canadian Corps of Commissionaires—Kingston and Region Division.....	JP-706
Mr. Bert Herfst	
GardaWorld.....	JP-709
Hon. Christian Paradis	
Affected Families of Police Homicide, Ontario	JP-711
Ms. Karyn Greenwood-Graham	
Canadian Mental Health Association, Ontario division.....	JP-713
Ms. Camille Quenneville	
Mr. Joseph Szamuhel	
Mr. Elie Labaky	JP-715
National Women in Law Enforcement Association.....	JP-718
Ms. Kelly Donovan	
Mr. Ade Olumide	JP-720
Ontario Human Rights Commission	JP-723
Ms. Renu Mandhane	
Mr. Tim Trow	JP-725
Chinese and Southeast Asian Legal Clinic.....	JP-727
Mr. Vince Wong	
Queen's University Faculty of Law	JP-729
Dr. Jo-Ellen Worden	



LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 1 March 2018

Jeudi 1^{er} mars 2018*The committee met at 0900 in room 151.*

SAFER ONTARIO ACT, 2018

LOI DE 2018

POUR PLUS DE SÉCURITÉ EN ONTARIO

Consideration of the following bill:

Bill 175, An Act to implement measures with respect to policing, coroners and forensic laboratories and to enact, amend or repeal certain other statutes and revoke a regulation / Projet de loi 175, Loi mettant en oeuvre des mesures concernant les services policiers, les coroners et les laboratoires médico-légaux et édictant, modifiant ou abrogeant certaines autres lois et abrogeant un règlement.

The Chair (Mr. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice.

As you know, we are here to consider Bill 175, An Act to implement measures with respect to policing, coroners and forensic laboratories and to enact, amend or repeal certain other statutes and revoke a regulation.

MR. KENT ROACH

The Chair (Mr. Shafiq Qaadri): We have our first presenter, Professor Kent Roach of the University of Toronto faculty of law, who is the Prichard-Wilson chair in law and public policy.

As colleagues will know, we have five minutes for an opening address, to be followed with a three-minute rotation of questions. As always, the timing will be enforced with military precision. Your time now begins, Professor Roach.

Mr. Kent Roach: Thank you very much for the invitation. I filed a 10-page brief, and behind the 10-page brief are about 40 pages of published commentary in the Criminal Law Quarterly that I did along with Dean Lorne Sossin of Osgoode Hall.

The bottom line is that I support the enhancements to police accountability in Bill 175, many of which implement Justice Tulloch's important report. I think the bill should be enacted, but that doesn't mean that improvements cannot be made.

Areas of improvement that I would point out are: I think the police review body should continue to have jurisdiction over complaints about policing policy, not the inspector general. I think that complainants and the

police review body should be given party status, not simply intervention status, when it comes to a substantiated complaint going before the new discipline tribunal.

I support the new discipline tribunal. I support its regularization, which I think is essential for there to be public confidence in substantiated complaints.

I support the balance of probability standard and the ability to discipline even retired police officers. I think this is appropriate, given the status of police officers as highly paid professionals.

I do worry, though, as the complaints body begins eventually to investigate all complaints, that if it is starved of resources it will not have the resources to do the systemic reviews. I think the enhancement of the systemic review powers the ability to require police and police service boards to respond to systemic reviews; that is extremely important. So you might want to even consider giving both the SIU and the police complaints body status as officers of the Legislature in order to prevent them from subsequent budget cuts, which, although well intended, could take away from the effectiveness.

But the two main concerns that I have with Bill 175 is that although it implements much of Justice Tulloch's—and it responds to Justice Morden's report, and Senator Sinclair's report about the need for police service boards to be more active—it totally ignores, in my view, chapter 12 of Justice Linden's Ipperwash report. In particular, section 40 and section 62 of the new police act provide that either the board or the minister, in the case of the OPP, can give directions to the police. I think that that is appropriate but I agree with Justice Linden that those directions should be in writing, they should be transparent, and they should be available to the public.

I also worry about the effective rewriting of the contours of police independence in subsection 40(4) and subsection 62(3), where we now have the minister and the boards being told to stay away from the routine administration of the police. As Justice Linden said, the core of police independence is simply that the minister and the board should not interfere with the law enforcement, investigative and charging decisions of the police. I think all others, if you have transparent direction, are open.

Then, finally, my last recommendation would be that the advisory board for the OPP I think is a good idea, but I also think the SIU and the police review body need a

statutory advisory board. One of the things that you're going to have with enhanced accountability and enhanced transparency of SIU rapport is, you're going to have more crises. Both of these bodies need to work with a variety of community members, particularly—

The Chair (Mr. Shafiq Qaadri): Thank you, Professor Roach. We'll begin our first line of questioning with the PC Party: Mr. Yakabuski.

Mr. John Yakabuski: Thank you, Mr. Roach, for joining us this morning. A few minutes seem hardly enough to discuss a bill that I had to eat an extra bowl of Wheaties just to pick up this morning.

Mr. Kent Roach: One hundred and ninety-one pages.

Mr. John Yakabuski: Yes. It's more than I can count on my two hands.

When I look at this bill and the overview, and I can't say that I've digested it over and over again, but one of the concerns I have is that the premise of the bill—it says the "Safer Ontario Act," but it's almost like, "Let's police the police act." I've had discussions with police all over this province—everybody wants accountability. They want to be accountable.

The primary job of a police force is to keep us safe. They're the ones we depend on every day. When we get up in the morning, we believe we can walk out on our streets and we have the best police forces in the world to ensure that our safety is their number one priority.

When I look at this bill, I worry about public confidence, because when I look at this bill, it spends an awful lot of time questioning or bringing in doubt, raising doubt about the question about the credibility and the competence and the accountability of our police. For me, the number one colleague that the police have in solving crime and keeping our streets safe is in fact the public. We're the best partner they've got because there are millions of us to help them do their work.

Do you not have some concern that this bill will lessen the public's confidence—which is very high and we need to keep it that way—in our police forces?

Mr. Kent Roach: Justice Tulloch has, in his extensive consultations, documented a lack of public confidence among some groups, particularly indigenous persons and African Canadians, so I see this as responding to that. But I agree with you that accountability is not enough, and that's why I've tried to stress the governance issues, right? I think it is very important that the minister and the police services boards take more responsibility for the directions they give to the police forces.

I believe in democratic policing. I believe in transparent policing. That's why my main recommendation would be to go back to the Ipperwash report, read chapter 12 and think about the considered recommendations that Justice Linden made for promoting democratic policing, because I agree that accountability is not enough. Accountability without governance change—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. We now pass it to the NDP: Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Mr. Roach, for being here. My question is: Do you believe that the im-

portant accountability provisions which you mentioned at the top of your remarks extend far enough into the potential services that could be provided by private policing providers as stated within the context of the bill?

Mr. Kent Roach: That's very important, but again I think that's why we need police services boards and ministers to be much transparent in the guidance they provide, both to the public and the private police. I agree that there is a real danger that there will be an accountability gap with private security providers, and I don't think accountability should be exclusively focused on public security providers.

0910

Mr. Taras Natyshak: How could you see that playing out if we were to continue with the status quo and, as you said, there is a gap—or, I would say, a vacuum—bridging the accountability parameters between private providers? What are some of the pitfalls? Raise some red flags here for us.

Mr. Kent Roach: I haven't looked at this specifically, but I think you would want to have amendments or flexibility that would allow both the inspector general and the police review body to do inspections and, if need be, systemic reviews to private security providers. I think the quid pro quo should be that if they are going to receive public money for providing security, they should be subject as much as possible to the same accountability structures that we subject the public police—

Mr. Taras Natyshak: And at the moment, do you see any of those provisions built into the context of the bill?

Mr. Kent Roach: This comes back to the 191 pages. That has not been a focus of my research, but I think that that might be a fix, simply by expanding the jurisdiction of both the inspector general and the police complaints body.

Mr. Taras Natyshak: Let's hope that the government isn't averse to adding a couple of pages to this 191-page bill and adding those important protection mechanisms—

Mr. Kent Roach: Yes, and I would support that, because I think it would be a shame, after the momentum that has been built by Justice Tulloch's report, Justice Morden's report and Senator Sinclair's interim report, for this not to be enacted before the general election.

Mr. Taras Natyshak: Thank you very much, Mr. Roach. I appreciate it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak.

To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much, Professor Roach, for being here this morning. I know you have been taking time from your class coming up soon.

Last week, previous witnesses before this committee asked for us to delay implementation. I want to hear your remarks about whether we should go forward, because that's the intent of the government. I want to hear your comments about the numerous reports about policing and oversight.

Mr. Kent Roach: Yes. Having been involved in this field for perhaps too many years, I'm a firm believer that

there is a momentum. Justice Tulloch took an awful lot of time to speak with community members, and I think that we should move forward. It doesn't mean that it's cast in stone. There's an awful lot that's done in terms of regulations, perhaps more than I would optimally see, but I do think that the bones of this provide a very principled structure and would actually put Ontario at the forefront of police accountability.

One of the things that I think is very important is that this sees police accountability as a system so it's not all the SIU; that the SIU has expanded jurisdiction over some offences, and they can also refer things to the police review board.

What I think is missing is that we have to see this as a cycle: SIU, police complaints. But also, the police service boards and the minister have responsibility to make policy in areas where there are continued complaints and continued, unfortunately, violent interactions between the police and community members.

Ms. Soo Wong: Your comments earlier—the focus should not exclusively focus on accountability.

Mr. Kent Roach: Exactly.

Ms. Soo Wong: You also urge the government to talk about the governance issues. I believe that's the intent of this bill, beside the accountability.

Mr. Kent Roach: Exactly, but I would go back to what Justice Linden said, which is that policing takes up huge amounts of resources and is a legitimate object of democratic governance. One of my concerns is that there are over-broad ideas of police independence. I'm a believer in police independence, but I believe in police independence as it has been defined by the Supreme Court, which is law enforcement police independence. It's not police independence over direction on the G20. It isn't police independence over the policy of operations.

I think we need to encourage the governors of the police to take more responsibility and to be more transparent about the directions that they give to the police, which is exactly what Justice Linden recommended when he said that when the minister makes policy for the OPP, that policy should be in guidelines and ministerial directives that I can—that any citizen can go to the website and find out what they are. But there's nothing of that in this bill, and I find that the most disappointing part of this bill.

Ms. Soo Wong: Thank you for your comments.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong, and thanks to you, Professor Roach, for your deputation and presence. We wish you all success at your 11 a.m. class.

ONTARIO ASSOCIATION OF CHIEFS OF POLICE

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Mr. Bryan Larkin, president, Ontario Association of Chiefs of Police.

Welcome, Chief Larkin. You've seen the drill. Please begin now.

Mr. Bryan Larkin: Good morning, and thank you, members of the parliamentary committee, for the opportunity, on behalf of the Ontario Association of Chiefs of Police, to address you.

Before we get into the recommendations, we have responded to Bill 175 and provided a summary of recommendations. We have 13 key recommendations. But we believe it's also important to note that the Ontario Association of Chiefs of Police has been a stakeholder over the last six years at the Future of Policing Advisory Committee that has been hosted by the Ministry of Community Safety and Correctional Services. So we've been fundamentally involved in what we believe is reshaping public policy around policing as we head to the future.

We also believe it is extremely important and we continue to advocate for a modernized police act that actually allows us to provide high policing and excellent policing to the citizens of Ontario in a much more diverse, complex society that we police.

Equally, we still believe that our policing model in Ontario is, if not one of the best in Canada, also one that is looked at internationally as good governance, good accountability and providing good services.

We have 13 key recommendations. I'm going to focus on eight of those recommendations, the first being that this Police Services Act, and Bill 175 in general, are fairly large to digest. But in particular to the Police Services Act, it's governed by regulations and the minister will have the opportunity to implement regulations, edit and amend, as the police act moves along. From an efficiency perspective, that's something that is positive.

However, there needs to be a formalized process that should be established to allow that the draft regulations be provided to the OECP and other key stakeholders for review and comment as soon as possible, and the same process should be followed moving forward.

The second piece we'd like to address is the outsourcing of policing functions under section 14 of the Police Services Act. These need to be sufficiently constrained by regulation and/or amendment to ensure charter compliance and that we maintain the integrity of police investigations as well as we protect legal privileges such as those surrounding confidential informants. Although we appreciate that we need to find efficiencies and modernize, we do have a number of concerns around that particular section.

The whistle-blowing provisions under part VIII of the Police Services Act, we believe, should also be revised to ensure that police associations and/or their agents cannot use this part to file public complaints that they are specifically prohibited from filing under subsection 58 of the Policing Oversight Act. Although we recognize that there should be good labour relations and potentially a new approach to how we manage employment matters, we do all have collective bargaining pieces that allow for associations and their agents to come forward through different processes.

Suspension without pay: We still believe it should be similar to other provisions that exist in other provinces. While the proposed suspension without pay under section 151 of the Police Services Act does represent a limited expansion of the authority for a chief to suspend without pay, it does remain unduly restrictive.

Chiefs of police should also retain the ability to demote police officers who engage in serious misconduct, without having to apply to the Ontario Policing Discipline Tribunal to hold a hearing over the matter.

Labour relations are very important. The chief must continue to engage the labour agent, the police associations, through collegial dialogue to resolve matters and to maintain discipline and order in employment matters within the police service. Having to go to the policing discipline tribunal will potentially impact those relations. It will impact morale within the organization and create a much more adverse system than already exists.

We also believe there needs to be further discussion on the issue, including auxiliary members, of police services under the oversight authority of the Ontario Special Investigations Unit and the Ontario Policing Complaints Agency. Auxiliary members are citizens, are volunteers. They do incredible ambassador work across our province. They promote special events. They do crime prevention initiatives. We're very concerned about that piece.

We support the government's proposal to adopt the balance of probabilities as the new standard of proof in police discipline hearings. This aligns with other professional discipline tribunals in Ontario.

Finally, we support sections 38(5) and 65 of the police act, as these provisions maintain the long-held common-law principle of police independence while providing much-needed clarity in terms of distinguishing the board's and/or minister's role in governance and oversight roles from the chief or commissioner responsible for administering day-to-day policing operations.

Again, we appreciate that the government of Ontario has actively listened to the views of the Ontario police leaders. We also believe that Bill 175 reflects much of our input during our participation in the Future of Policing Advisory Committee. We're also strong supporters of the recommendations made by Justice Michael Tulloch on police oversight and a strong governance model for Ontario.

0920

The Chair (Mr. Shafiq Qaadri): Thank you for your expert timing, Chief Larkin.

We will begin with the NDP: Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Chief, for your deputation here today. You presented eight of your priorities—eight of 12 from your submission. I'm wondering if you wanted to elaborate on the remaining four that you weren't able to touch on. I'll hand over my time to you to do that.

Mr. Bryan Larkin: Yes. Thank you very much. One of the key pieces, obviously, is around section 149 of the Police Services Act, around clarification of the

complaints director around the termination of a police officer without a hearing before the Ontario Policing Discipline Tribunal. Obviously, it's a marked departure from the democracy that we currently have, where the officer would be entitled to a hearing. We believe that that needs to be clarified.

We also believe that section 115 of the Police Services Act needs to be clarified around an officer who is incapable of performing or fulfilling the essential duties or requirements of a police officer and who is assigned to a civilian position—around remuneration and what that looks like. I think that there are some unknowns in that process. We also have a duty to protect those officers who are injured in the line of duty etc. There needs to be more conversation and dialogue.

We also believe that, clearly, the Police Services Act, subsections 156(2) and (3), need to be revised to allow police service boards to use their police services' own records and discipline records to defend ourselves in civil proceedings. We currently have that provision; in the proposed act, it seems to have disappeared. That could be an oversight, but obviously, we do have to defend, and often the only record we have is our own discipline records.

We also believe that the new Police Services Act, which excludes the chief and deputy chief from the collective bargaining process—it hints that we're employees of the board or that the commissioner is an employee of government. It should be broadened to include civilians and civilian professionals in executive positions. Roles such as the chief administrative officer, director of finance, human resource experts, legal service experts, legal counsel, often are in a conflict because they provide direct recommendations and opinions to the chief and/or executive. Yet, they're in a bargaining agent.

Last, we believe that members of police services are uniquely qualified to provide advice and information to assist municipalities and First Nation communities in the preparation of the community safety and well-being plan. For the record, we fully support community safety and well-being and moving the needle upstream in addressing social issues. That being said, we should be included in parts of the planning process, including the advisory committee. In the current proposed act, we don't have that opportunity.

Mr. Taras Natyshak: Thank you very much.

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Sandals.

Mrs. Liz Sandals: Welcome, Chief Larkin. You mentioned section 14 and some issues around charter compliance and accountability if services are outsourced. Could you expand on what you're looking for there?

Mr. Bryan Larkin: Yes. From an efficiency standpoint, we do appreciate the potential merit of outsourcing non-core policing functions as well as some of the administrative aspects of investigative supports—clerical staff etc. However, the wholesale privatization of sensitive policing functions, such as wiretaps or the interception of conversations etc., physical surveillance—for

us, they give rise to serious concerns, including charter issues, in the sense that, how do we maintain the integrity of the investigations? How do we protect potential confidential informant issues? They can be constrained through further regulation or amendment to the bill, but we have concerns.

Obviously, we recognize that there needs to be movement on some issues, such as around crime prevention, crime scene analysis and forensic identification. We believe that there is potential merit, and those potential merits should be involved in dialogue with our bargaining agents, our associations around how we move forward, how we find efficiency standpoints.

Similarly, we believe there is an oversight with the impending legalization of cannabis and upcoming amendments to the Criminal Code for drug-impaired driving etc. The police service and police services board should be allowed to look at outsourcing or contracting blood, urine, saliva collection similar to the addition of breath analysis.

Our key focus is on very sensitive information which could be related to national terrorism, domestic terrorism, items of national safety interest, as well as significant organized crime investigations. We have some concerns around that piece, and we think it should be constrained.

Mrs. Liz Sandals: Just to make sure I'm understanding correctly, then, the concern would be that if you were to contract out some things that are highly technical—IT sorts of things, forensic investigation sorts of things—because those functions overlap with investigation, you would need the same framework, the legal framework and accountability around those investigations that you would have when it's done by a direct employee of the police service board.

Mr. Bryan Larkin: That's correct, Minister Sandals. We obviously have some concerns about privileged information and access to privileged information, which the police services have significant accountability for.

Mrs. Liz Sandals: Okay. Another area that you mentioned was moving to balance a probability. I wonder if you could just talk about what you see the advantage—

The Chair (Mr. Shafiq Qaadri): With regret, Ms. Sandals, that question will remain rhetorical.

To Mr. Yakabuski: three minutes.

Mr. John Yakabuski: Thank you very much, Chief Larkin.

The only time I heard the word "current" about the bill was when you finished your time, when you used Mr. Natyshak's time. Every reference was to the Police Services Act. Just to clarify, you're talking about what is currently the legislation?

Mr. Bryan Larkin: The proposed Police Services Act of 2017.

Mr. John Yakabuski: Okay, the proposed—

Mr. Bryan Larkin: I cut "proposed" out to save on some time.

Mr. John Yakabuski: Okay. That's what I was trying to clarify, because there are a lot of sections here, and again, you're going through it in a very quick way.

But you did talk about the outsourcing thing, which certainly does raise a lot of questions. You yourself said there's a lack of clarity. What is the situation with regard to non-oversight when outsourcing police duties? Those people would not be full-fledged officers, or whatever you want to call them—sworn-in officers or whatever. How do you deal with the issue of non-oversight for those persons?

Mr. Bryan Larkin: That's one of our concerns that we think need to be clarified or constrained by regulation or amendment. When you're looking at enhancing the oversight model and you're looking at increasing accountability, one of our concerns, as the chiefs of police or senior police leaders, is: What framework do we have to hold our outsourcing privileges in account with the current proposed legislation?

Obviously, we believe that, from an efficiency standpoint, there are some non-core essential duties that we need to change. We need to modernize and we need to reflect the current employment model of good policing.

That being said, though, there's nothing that clarifies that. It seems to be either an oversight, a missing link or something that needs to be addressed.

Particularly, our significant concern is on privileged investigations, and that's one of our focuses. When you look at some of the severity of crime in Ontario and across Canada—we need to maintain some balance of managing those investigations and the privileged information that comes from those.

Mr. John Yakabuski: Okay. You also talked about provisions regarding the disability of an officer. No matter where anybody works—and you obviously run a department and you're the head of the chiefs of police—no matter where you work, whatever kind of environment it is, the number one prerequisite to a successful workplace is the morale of the workforce. Would you not agree?

Mr. Bryan Larkin: Yes, absolutely. Hence, labour relations are extremely important.

Mr. John Yakabuski: Absolutely.

Mr. Bryan Larkin: Our work with our association friends, many of them in the background here, is very important.

Mr. John Yakabuski: That's right. If you've got people who really enjoy their work and feel that they're rewarded properly and recognized for good work and a job well done—this is one of the things that I'm concerned about: the morality of the police force—pardon me. Let me correct that: the morale of the police force. When we start talking about things that, in my opinion, bring me concern that we're actually doing things—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski.

Thank you, as well, for your deputation and presence, Chief Larkin.

MR. IAN SCOTT

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Mr. Ian Scott—

not the former Attorney General, but a different Ian Scott.

Mr. Ian Scott: Rumours of my death are greatly exaggerated.

The Chair (Mr. Shafiq Qaadri): Exactly. Welcome. You've seen the drill: five minutes. Please begin now.

Mr. Ian Scott: Thank you. By way of background, I'm currently a visiting professor at Western law school, teaching criminal law, criminal procedure and a course called Police Accountability and the Law. I was the director of the Special Investigations Unit for five years, and the president of the Canadian Association for Civilian Oversight of Law Enforcement.

I'm also the author of three editions of the annotated Police Services Act, and the editor of a book called Issues in Civilian Oversight of Policing in Canada.

I've had the opportunity to speak about police oversight at conferences throughout the world.

The overall lesson I have learned is the importance of public confidence in policing, and the role of oversight in facilitating that public confidence.

0930

I would like to congratulate the government on the drafting of Bill 175 and encourage it to pass the bill largely in the form it presently is in. I have some suggestions to improve it, which I will address in a moment.

Before doing so, I'd like to take a step backward and look at the last time this province engaged in major police reform. It was the passing of the Police Services Act in 1990, the one that's still in effect. At that time, the government passed into law an act that had two groundbreaking ideas: a province-wide public complaints system and the start of the Special Investigations Unit. While the complaints system went through a rocky history, the SIU is now deeply entrenched into the culture of this province. No one suggests nowadays that we should go back to the pre-1990 days of police investigating police in death and serious injury cases. It took another 17 years before another province, Alberta, adopted the SIU model. Now, virtually every province has or is on the verge of instituting an SIU-like model when the police cause serious injury or death. In other words, Ontario is a role model for most other provinces and years ahead of its time.

Now, 28 years later, Ontario is on the precipice of again becoming the country's role model in police oversight by incorporating recommendations of the Tulloch report into Bill 175.

In my view, the most important aspect of the bill is not the changes to the SIU, but the ones to the public complaints system. If passed, for the first time in Canadian history, public complaints will be investigated, prosecuted and adjudicated by independent agencies outside of the policing structure. The current system, as we know, is largely a filtering one. Most complaints are either filtered out or go back to the affected police service. Most complaints are not going to lead to discipline, even if there is effective investigation. There will always be suspicion if the police control the complaints system, even when they do an effective job.

One comment about the public complaints system, then a few about the proposed changes to the SIU part of the act: Recommendation 8.1 of the Tulloch report recommends that independent police complaints prosecutors who work for the Ministry of the Attorney General should prosecute these matters. The proposed bill is silent on that point. Section 79 says that the matter should be referred to the tribunal if the public complaints director has reasonable and probable grounds to believe that misconduct took place. Is the idea that the tribunal will be responsible for both adjudication and prosecution?

I simply remind the committee of the 2004 Gardner decision, where the problems that used to exist with cases prosecuted and adjudicated by OCCOPS, the predecessor to the OCPC. The bill should be clear on who will be the prosecutor, and it should be an arm's-length relationship from the tribunal.

Turning to the SIU, the biggest concern I have is the watering down of the duty to co-operate provision. This is an area of ongoing friction between police agencies and the SIU. Let's go back to the current drafting of the Police Services Act, subsection 113(9): "Members ... shall co-operate fully" with the SIU. Then please refer to the Tulloch report on the issue at page 110, leading to his recommendation 5.8. The spirit of the recommendation is to strengthen rather than weaken the duty to co-operate, and at one point, there's a recommendation that a failure to co-operate could lead to a provincial offence. Then let's look at the drafting in the current Bill 175. Subsection 33(1): Police shall co-operate "unless it is impracticable to do so."

In my view, there's simply no need to include this phrase. The SIU has existed for 28 years without this inclusion. It would be a grave mistake to include it, and it will lead to endless arguments about who decides what's impracticable and whether it was impracticable.

I might add that this same phrase exists in section 100 dealing with public complaints, and I would recommend that you delete that as well.

The other big point—I have a number of them which I may not get to; if I can have somebody's time, I'd be happy to take it—is that of stripping the director of discretion. A couple of provisions unnecessarily strip the director of discretion he or she ought to have as the head of the investigative unit. Subsection 17(5): The director shall cause an investigation if his designated officer gives notice. It means the chief can force investigations on the SIU.

The director needs the discretion to decline to accept cases. A good example would be a sexual assault investigation which is well into the middle of it, and there's no need or no desire to change to a different investigative agency—

The Chair (Mr. Shafiq Qaadri): Thank you, Professor Scott, for your introductory remarks. We move to the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much, Mr. Scott. I know we don't have lots of time to ask you questions this morning. Can you ensure with the Clerk your presenta-

tion gets sent to the committee, so that we can get follow-up?

Mr. Ian Scott: Shall do. I mean, my presentation is basically a series of talking points—yes.

Ms. Soo Wong: Okay. That would be really helpful.

The previous witness just shared with us his suggestion. I know that there have been numerous concerns raised to this committee and the Minister of Community Safety and Correctional Services dealing with police oversight. In terms of Bill 175 as it is right now, can you see that these changes will improve public confidence? That's what we consistently heard: that there's a lack of public confidence right now, dealing with the oversight piece. Can you see this—

Mr. Ian Scott: Oh, absolutely. It's a large step forward with respect to that. There was a large step forward that happened in 1990 with the Police Services Act. I'm strongly of the view that it will facilitate public confidence.

Ms. Soo Wong: You also mentioned earlier the whole issue of the newly created public complaints system. How do you see that in terms of communicating to the public? So much of what we do—we can write lots of legislation and lots of regulations, but how do you ensure that the public understands this new system of complaints?

Mr. Ian Scott: It requires a very strong outreach department. I know that the OIPRD has tried to involve—these are difficult issues. The general oversight business is somewhat complex from the outside, but I would like to think that effective oversight—I know the SIU has tried to develop this as well, even though the complaints are not generated by the public. It actually doesn't need oversight as much as the public complaints system does.

Ms. Soo Wong: One of the witnesses spoke earlier about the importance of accountability but also the issue of governance.

Mr. Ian Scott: Yes.

Ms. Soo Wong: In terms of Bill 175, do you see some improvement in terms of the issue of governance?

Mr. Ian Scott: I defer to Professor Roach on this issue. It's really an issue which he is a renowned expert on.

Ms. Soo Wong: I know, but as a former SIU, in terms of your previous role, and now in terms of being a witness to this particular committee today, how do you see this proposed Bill 175 improving governance issues?

Mr. Ian Scott: In terms of the relationship with the SIU, the fact that it's going to be a stand-alone bill, as opposed to part of the Police Services Act, at least on a symbolic basis, supports that.

I've actually recommended that the SIU director be appointed by the Legislature, much like the privacy commissioner or the Ombudsman's office, so they have complete independence. That was not adopted by either Justice Tulloch or by the bill.

Ms. Soo Wong: You want to see the SIU director as an independent officer of the Legislature?

Mr. Ian Scott: I recommended that, in an ideal world. We don't live in an ideal world. It would have been nice to have. But they've gone a long way in the sense of making it a stand-alone piece of legislation.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong.

Now to the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much, Mr. Scott, for being here today. I know you wanted some more time. I'll just ask one quick question to you.

Mr. Ian Scott: Certainly.

Ms. Laurie Scott: When you were talking about the stiffer penalties for members of the police associations that don't co-operate—I just wanted you to comment. In your history—and from what I've learned—is there actually any history of officers who never co-operated?

Mr. Ian Scott: Oh, yes, there's an extensive history. It has been extremely well documented by articles in the Toronto Star, both last year with respect to the current director, and during my tenure. I left in October 2013.

When I completed every investigation, I had to send a report to the Attorney General, and I would send a reporting letter to the chief. I would document to the SIU when there were purported breaches of the regulations in the Police Services Act.

I was trying to develop a protocol, when I was there, to amend these issues and resolve them, and I was largely unsuccessful, actually. But I documented well over 100 cases, mostly to do with delayed notification and non-notification.

This is an ongoing issue with the SIU. In fact, we're seeing it arise right now in the Dafonte Miller case—we're in the middle of the preliminary inquiry right now—where there was a very serious injury to a fellow named Dafonte Miller, and no call by either Durham police or Toronto police to the SIU.

Ms. Laurie Scott: Okay. I wanted you to finish what you were saying about section 100 and a victim of sexual assault and changing the investigator—if you could finish that thought. I just wanted to hear that more fully, if you could, please.

Mr. Ian Scott: Yes. The reality is that police services always have the discretion to move investigations out of their police service or to decline taking the investigation at all. The director should not be in a position where he has to accept an investigation from the chief of any police service. The way it's worded right now, it's mandatory, with the word “shall.” In my respectful submission, it ought to be changed to “may,” which is exactly the wording in section 16, so that there's some discretion in this area.

I'd go further in terms of this issue of stripping the director of discretion.

If you go to section 34, it reads that if there are reasonable or probable grounds for “an offence under any federal or Ontario statute, the SIU director shall cause charges to be laid against the person.” This is much too broad, in my submission. The director would have to charge civilians who gave statements, if he thought they

had lied, with public mischief, or the police with minor HTA offences when they're investigating, say, a dangerous-driving-causing-death case.

0940

There are a number of problems with this. First of all, it's going to play havoc with the way statements are taken from witness officers. If a witness officer is suspected of a criminal offence, the statement and their notes have to go back to the police service. The SIU can no longer rely upon them.

Secondly, there's a case called *Beaudry* from the Supreme Court of Canada, 2007, which says that all police officers—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Scott. We now move to the NDP side: Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Chair. I yield my time to Mr. Scott.

Mr. Ian Scott: Okay. All police officers have discretion not to lay charges as long as they do so for bona fide reasons. Why should the director of the SIU be in a lesser position than any other police officer in the province, or in the country, for that matter? I think that what they ought to do, when you go back to section 34, is simply change the "shall" to "may." Give the discretion to the director, which, frankly, every police officer in this province has.

I have some more points, if you'd like to hear them.

Mr. Taras Natyshak: Absolutely.

Mr. Ian Scott: Okay, let me go ahead. Section 29 of the proposed act, Bill 175: the right to consult with a lawyer and/or representative before the interview and to have them present during the interview. The question I have for the committee is this: Why is the right being broadened to include both a lawyer and a representative during the same interview? There is no need.

The current section is disjunctive: either a police association representative or a lawyer. They're changing it to expand it. So in the room you're going to have the subject of the interview—the witness officer; one or two SIU investigators; and currently one lawyer—it's going to be now a lawyer and an association representative. I iterate on this point: These are witness officers. They're not suffering any criminal jeopardy.

In fact, I've documented in an article that was published in the *Criminal Law Quarterly* in 2013 where police association lawyers have interfered with the witness officer interviews. In my respectful submission, this could make it worse by having two representatives in the room at the same time.

I have a couple of other points, if you'd like to hear them.

Mr. Taras Natyshak: Absolutely.

Mr. Ian Scott: Okay. Turning to section 27 regarding the timing of interviews, there's a term in there: "if there are appropriate grounds for delay." In my respectful submission, this is not necessary. Once again, the issue of discretion is not clarified. Whose appropriate grounds for delay? If this section stays in there, it ought to be that it's

the SIU's decision to delay an interview more than 24 hours, which in effect it is right now.

Finally, securing the scene: If you go to section 22, it's a very unnecessarily complicated new provision. In my respectful submission, why not simply say that the scene should be secured pending SIU arrival, and any attempt to obtain or preserve evidence requires prior SIU approval?

I wanted to end with a quote. May I use some more of your time?

Mr. Taras Natyshak: As much time as is left.

Mr. Ian Scott: Very good.

The Chair (Mr. Shafiq Qaadri): Twenty seconds.

Mr. Ian Scott: Pardon me?

The Chair (Mr. Shafiq Qaadri): Twenty seconds.

Mr. Ian Scott: All right, I'll go right to—

Mr. Taras Natyshak: Hurry up.

Mr. Ian Scott: Yes, I'll do it quickly. A quote from Justice Cory, who was retained by the Republic of Ireland to look at unresolved killings: "If you have a society, you must have an authoritarian arm of that society. That society must have confidence in that branch, be it police or the army." This bill goes a long way towards facilitating public confidence.

The Chair (Mr. Shafiq Qaadri): Thank you, Professor Scott, for your deputation.

Mr. Ian Scott: Thank you very much.

LONDON POLICE SERVICES BOARD

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward. The London Police Services Board: Jesse Helmer and Susan Toth. Welcome. Please be seated. Your time begins now.

Ms. Susan Toth: Good morning, committee. Thank you so much for having us here today from London. My name is Susan Toth and I'm the vice-chair of the London Police Services Board. With me is Jesse Helmer, who is also a member of the police services board.

I just wanted to start by saying that there are lots of positives in the Police Services Act changes. I wanted in particular to highlight, as a board member, how grateful I am for some of the clarity, especially around the operational and policy divide, which has been a source of tension on police services boards in terms of dealing with issues and facing some resistance from management. That is much appreciated.

Similarly, the sections that address closed meetings are going to be really important. Transparency is crucial for public confidence, so I really appreciate that those sections are specifically being addressed. It's something that's not really currently present.

When I started on the police services board in April of last year, my training consisted of a one-hour meeting with the board lawyer, and very little beyond that. I'm lucky I have a legal background, so I had some familiarity with the Police Services Act. The mandatory training is absolutely crucial. This is a really big organization and a very complicated act, and we're seeing members come

in with absolutely no training or very little training and without the capacity to make some really important decisions. So thank you for that as well.

Whistle-blowing protections for police officers are crucial. No one knows better than individual police officers where the problems within a service lie, so I think that's also very important, and I thank the committee for highlighting those things in the new act.

Some of the areas I'd like to highlight in terms of potential concerns: Right now, section 13 and section 14 talk about police functions without actually defining what those core police functions are. I gather that it's probably going to be put in the regulation. In my opinion, it's not something that's appropriately left to be defined in a regulation. The core of the Police Services Act should include defining police functions right away, contained within the act itself.

We had a situation in London, unfortunately, involving a board member. There is a section of the current regulations, the code of conduct, which requires a board to make a finding that another board member has breached the code of conduct before it can be referred to the OCPD as it is now. Should this act pass, there's now going to be an inspector general; it would be good to see a change in the regulations about the code of conduct that would allow a board to immediately refer any code-of-conduct issues to the inspector general. I don't think the board is the best place to make those preliminary findings. It's a conflict. You're working with these people. It's best to be resolved independently by an outside body.

Section 115(2): I'm sure that you're aware, and I'm sure other people have raised, that the legislation currently requires, if an officer cannot do the essential duties of the job, that the board, before they terminate that employment, provide medical evidence from two doctors and then prove that there is undue hardship to accommodate that police officer. Essentially what that does is put the burden with the employer, which is the police services. The way the proposed legislation reads now is that that burden actually shifts over to the police officer. In other words, if the chief finds that a police officer cannot do the essential requirements of the job, they can be shifted over to a civilian or can be terminated. I think that that already overburdens the police officer, and there's too much stigma that could occur.

I'm going to turn it over to Mr. Helmer.

Mr. Jesse Helmer: There are two other points where we have some concerns. One is in the timing and how long it takes to have an SIU investigation completed. Right now we're seeing officers under investigation for up to two years and sometimes longer. That is not good for the officers; it's not good for the police service; it's not good for the community. Everybody is in strong alignment to say that these things should be happening faster. We would like to see some kind of articulation of what the expectation is for turnarounds on investigations in the legislation.

Secondly, we don't think it's appropriate to make SIU investigate a case where officers have provided life-saving measures and that's all that has happened. For

example, if they were to administer naloxone to somebody who was in the middle of an overdose and that was what is the cause of the death, unless the person was in custody—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Helmer. We begin with the PC side. Mr. Yakabuski?

Mr. John Yakabuski: Thank you very much, Susan and Jesse, for coming in this morning and helping us on this new piece of legislation. Susan, you made a comment that nobody is in a better position to understand the needs—I'm just paraphrasing—than police officers themselves. When I look at this bill and when I have discussions with many police officers, they ask themselves and ask me, "Where were the discussions with us, the people on the ground every day, before this legislation was drafted?" I certainly share their concerns. They clearly indicated to me that this was never part of the drafting of the bill, yet they're the ones who are very much affected by this.

Jesse, you talked about the length of SIU investigations for matters that sometimes either shouldn't be there or should be cleared up quickly. Yet my understanding is that the plan is to—we're opening up the Police Services Act to all kinds of new and more investigations, but they're not putting the resources in there, so we're going to put more lives on hold for longer and longer periods of time.

0950

The officer, their family, when you've got a cloud hanging over you, you can rest assured that you're not likely to be getting any promotions, transfers or anything that might be good for the officer who could have no guilt of any kind. Plus the level of proof under the complaints provision in this act goes way down from where it used to be, from a clear and convincing level of proof to a balance of probabilities.

Do you not have some concern that all of these things are going to do great damage to the morale of the very people we have on the ground protecting us?

Ms. Susan Toth: Thank you for your comments. I would actually disagree that the standard has dipped to something that is unreasonable. A balance of probability standard brings police officers in line with the standard used in every workplace investigation. I don't think police officers should be held to a standard that is harder to achieve than the rest of the population. If anything, they should be held to a higher code of conduct, essentially. So I don't have a problem with that section.

Having said that, I do think it's important that police feel that they're able to take their complaints and that they be investigated externally. Right now, even though there is whistle-blower protection, internal complaints are still dealt with internally. If a police officer has an issue with another police officer or is seeing issues, that should all go externally. I think that should be part of the act as well.

Mr. John Yakabuski: So you say—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. We now move to the NDP section: Mr. Natyshak.

Mr. Taras Natyshak: Thank you very much for being here. It's 191 pages; there's no way two and a half minutes each is adequate enough. I'm going to give you the time to elaborate on some of your thoughts and some of the points that I know you wanted to get to. So the time is yours.

Mr. Jesse Helmer: Just to finish off on the life-saving measures: We just don't want to waste the SIU's time. We understand that they have to investigate a lot of things, and when an officer has just administered naloxone and there has been a death, as long as that person was not in custody, we don't think that that should be automatically referred to SIU, especially if the director doesn't have the discretion to refuse. So that's one thing.

I would say, on the issue around properly resourcing SIU so it can meet the timelines, we're giving feedback on the legislation, and our feedback on the legislation is that we'd like to see there be some expectation around how long these things should take. Then, we would hope all parties would support the budgets that are necessary to accomplish that.

Ms. Susan Toth: I would just add very quickly that I want to support Mr. Scott's pointing out that section 32 of the SIU act right now has that term "impracticable," which I don't think is necessary. I think it weakens that section to a point where there almost is no point. I would personally like to see that section removed.

I think those are all my comments.

Mr. Taras Natyshak: Do you have any thoughts on the provisions of outsourcing police services and the lack of accountability and oversight mechanisms built into the bill?

Ms. Susan Toth: Yes. Thank you so much for raising that. Absolutely, that's a concern. I think that while the police services board association points out that there are some cost-saving measures to be derived from that—and certainly costs for municipalities are growing because the cost of policing is getting so high. However, the act needs to specify that if any of that is downloaded, there still has to be oversight accountability. The list is long, and again, without defining the core functions of policing, there is so much unclarity and confusion around what exactly is going to be downloaded, other than what the list has already provided, and how exactly we are going to provide oversight for that mechanism. So I have some significant concerns. I like cost savings, obviously, from a municipal perspective, but I don't like the idea of this Walmart-ization, privatization of policing.

Mr. Taras Natyshak: Did you want to elaborate on that?

Mr. Jesse Helmer: I think without having the core functions of policing defined in the legislation from the outset, it's hard to comment on whether different pieces can be civilianized or privatized. I do think we need to have police officers who are highly trained focus in on the things that only they can do and that they're best equipped to do. I think, for example, of the number of times that police officers are called to deal with someone who has mental health issues. They don't necessarily have the training—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. To the government side: Mr. Potts.

Mr. Arthur Potts: Thank you, Ms. Toth and Mr. Helmer, for the work you do on the board, stepping forward for that. I appreciate very much your comments around the training aspect. It's critical. I'm in the city of Toronto, and police board oversight issues were front and centre as I was coming into my own. June Rowlands, the first female chair of a board, was constantly up against a wall when it came to trying to wrestle some kind of reasonable oversight. I appreciate your support for the bill.

I know that Justice Tulloch in his review listened to associations, boards and police officers individually and collectively. Did you participate in that process? Did you have any experience about—I find it just plain misleading for a member opposite to be talking about no consultation with rank-and-file officers. Would you want to comment on that?

Mr. Jesse Helmer: I can say that certainly our police association locally is well aware of the bill and has been providing comments. We've heard from them; I imagine everybody has. They're pretty well organized and paying very close attention to Bill 175.

Mr. Arthur Potts: Thank you. I appreciate that. I would agree with you. We've had in-depth opportunities to consult with all interested stakeholders across this whole process.

Your comments on naloxone—I understand the concern police officers may be having about being subject to investigations in the use if there's a death following. Could you comment on whether you see that as being something which would actually stop a police officer doing a life-intervening application? My sense is that if the investigation—it could be very quick, if the person was in crisis: "We tried the best we could, and that's the end of the investigation." How would you respond?

Mr. Jesse Helmer: I would say that it's unlikely that would stop an officer from administering naloxone. I think in a situation like that, they're going to respond as most people would and according to their training, which is to help try and save this person's life. What I do think it would do is potentially waste a lot of time. In London, for example, we have a lot of people who are overdosing on injection drugs; police are sometimes involved in those situations. It's something that is growing rather than declining in terms of being an issue in the community.

We're just concerned about the allocation of resources from SIU and a really short investigation that's not necessary. We've got a lot of things that are necessary that need to be done.

Mr. Arthur Potts: Fair enough. Anything else you want to comment—

Ms. Susan Toth: I would just add to that that I had a long conversation with a police officer yesterday and even though I agree with Mr. Helmer completely that a police officer would never hesitate to provide life-saving measures, I can tell you that in my conversation with

him, every time they enter into any situation, SIU flashes in their minds, even as they're making those split-second decisions. While I appreciate that public confidence is paramount in terms of oversight, I sympathize with the officers.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Toth and Mr. Helmer, for your deputation on behalf of the London Police Services Board.

REGION OF PEEL

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward from the region of Peel: Mr. Palleschi and Mr. Cristiano. Welcome. Bienvenido. Please be seated. You have five minutes' opening address. Please begin now.

Mr. Michael Palleschi: Thank you very much, committee. Thank you, Mr. Chair. Good morning. My name is Michael Palleschi. I'm a regional councillor in Brampton, representing approximately 130,000 people in wards 2 and 6. I'd like to thank the committee for the opportunity to present on Bill 175.

Let me say at the outset that the region of Peel supports the province's overall direction on community policing as proposed in the bill. While we support the general direction of the bill, the region has three concerns with schedule 1 of Bill 175 that would increase municipal costs and limit our ability to deal with rising police budgets. These three areas are:

- (1) mandating community safety and well-being plans;
- (2) rising police service budgets; and
- (3) the budgetary implications of police board member training.

Mandating community safety and well-being plans: Our first concern with Bill 175 is about the requirement for municipalities to develop community safety and well-being plans. The region sees community safety planning as a good thing as it promotes collaboration across sectors. However, we are concerned that this measure will impact our resources.

We believe that the province has not fully considered how this requirement would affect a municipality's capacity to deliver on it and ultimately drive up costs.

The region of Peel, like other municipalities, is responsible for funding and delivering a host of services that our residents and businesses need, including the requirement to fund adequate and effective police services in our community. As you probably are aware, police services are largely funded by municipal property tax dollars, which are already stretched.

To help municipalities carry out the new responsibility, the province should provide funding. We are therefore calling on the province to create a grant program to provide financial support to help municipalities in developing their community safety and well-being plans.

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Number two, the rising police services budgets: Our second concern is that the bill does not adequately address the ability of municipalities to effectively manage

rising police services budgets. Policing is the largest expense in the region's annual budget, making up 40% of each tax dollar collected, and the police budget is overwhelmingly driven by labour costs, which make up more than 90% of Peel's 2018 police budget.

As the region and other municipalities deal with this fiscal reality, it is important to find ways to effectively manage the police budget. One option is allowing the police service to use civilian or non-police personnel to carry out non-core police services at a reduced cost.

We acknowledge that Bill 175 does allow some police services to be carried out by non-uniformed police officers and contractors, but we don't think it goes far enough. The province should expand the functions that contractors or civilians can perform to include traffic management, minor property offences, prisoner escort, court security and crime scene security.

Number three is our budgetary implications of the police services board member training. The region has concerns that the mandatory training of police services boards will put financial pressure on police budgets. While the proposal to require police services board training is a positive development, who will deliver and pay for board training still needs to be determined. For this reason we support AMO's call for the mandate of the provincial inspector general to include financial support to police services boards for the mandatory training programs.

We would also like to see provincial dollars dedicated to helping police services boards effectively carry out their roles and responsibilities and enhance their capability.

In conclusion, I'd like to thank you for listening to the region of Peel's concerns. As mentioned, we are concerned that the mandate to create community safety and diversity plans will add to municipal costs. You also heard how municipalities can better address police budgets by allowing more flexibility in the way we deliver police services. Like you, the region wants to build safer and more secure communities, and we believe that the concerns and proposed changes we expressed will help us achieve this goal in a more effective way.

On behalf of the city of Brampton, the city of Brampton supports the region of Peel's and AMO's submission.

The Chair (Mr. Shafiq Qaadri): Thank you, Councillor Palleschi. We begin with the NDP side: Mr. Natyshak.

Mr. Taras Natyshak: Thank you very much, Mr. Palleschi, for being here. In the absence of a community safety and wellness plan, what would the city of Brampton have to coordinate the resources and to ensure that they're adequate, and that, in the event of an emergency, they're adequately focused and resourced?

Mr. Michael Palleschi: As of right now, we would depend solely on the region of Peel to administer any emergency measures that need to take place. On behalf of the city of Brampton, we started the process of establishing a safety advisory committee. It has taken us well over

a year just to have the right composition, and with this introduction of the bill, we still don't meet that legislation.

Mr. Taras Natyshak: So just to get people together who are charged with the function of developing a plan is a challenge for your region?

Mr. Michael Palleschi: Absolutely. It's a very difficult challenge. We've noted, and I believe AMO has as well, the fact that it's a lot of public consultation, finding the right composition. The training, therefore, is a tough task.

Mr. Taras Natyshak: Okay. You mentioned that you believe that the provisions around outsourcing some police functions don't go far enough in terms of the potential savings that municipalities would like to benefit from through that mechanism. Are you concerned at all with the lack of oversight for those functions and for those potential private providers?

You talked about securing crime scenes. I play that out in my head and it turns into a terrible television show where it compromises the entirety of the potential case and the crime scene. Given that those safeguards aren't there and those oversight mechanisms might not be there as well, do you have any of those concerns, given that there is not really clarity on oversight?

Mr. Michael Palleschi: I'm sure I have the concerns, as you do and everybody would. It would be creating that plan, though, to try to understand and try to have the ability to make sure that those concerns are met with the proper oversight. But the ground level where the training comes into play, and ultimately there would be some sort of head figure administering and making sure that—but it all goes back to that plan and the fact that so many resources have to go into the plan. Staff resources are a huge part of it.

Mr. Taras Natyshak: I can appreciate that, and I thank you for your comments on that. In my experience in this building, when it comes to the outsourcing and privatization of core functions—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation and also your written submission. I noticed that your presentation as well as your submission focused mainly on the issue of budgetary concerns. Just so it will be on the record, the Minister of Community Safety and Correctional Services is still looking at the funding model. We will be having more conversations with our adversaries across.

In my time in the ministry, the budgetary concerns of policing across the province, whether it's an urban centre or a rural centre, have always been an issue. I just want that to be on record as well.

I noticed in your first comments dealing with the mandatory community safety and wellness plan—I want to push that out in terms of the previous witnesses before this committee. Professor Roach and a former SIU director, Mr. Scott, talked about the issue of accountability and the issue of governance. As you know, govern-

ance is a big, big concern. Given that the proposed legislation will be asking each municipality to create this safety and well-being plan and work collaboratively with the various organizations—that's good for accountability, that's good for governance issues, and more importantly, that whole issue of public confidence and trust.

You have a very diverse community called Brampton. Do you see merit in support for these kinds of plans and making sure your community is listened to?

Mr. Michael Palleschi: I think that any time we're talking about safety for any community—and in the region of Peel, our diversity is very strong and a benefit to the region. I think that when you mirror safety and accountability, it's hard to say anything other than yes. It goes hand in hand. We appreciate the fact that the province is trying to bring forward more accountability, so yes, we agree 100%.

Ms. Soo Wong: Okay, so, because time is limited: I think there were some concerns raised about the core functions of officers. It is intended by the government, by the minister herself, that the core functions of police will stay with police. The whole issue concerning privatization—you have asked us to push out the issue of non-police work: Can it be met by some non-profit organization? We have witnesses coming before this committee this afternoon to talk about non-police types of activities. I want to be very clear that the core function of policing will stay with the police. It is not going to be privatized etc. I know you asked us to remove—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. To the PC side: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Michael, for joining us this morning. Most of what you're talking about this morning revolves around the cost and the impact it has on your taxpayers, ratepayers, in Peel region, with policing being a huge part of that cost.

The mental health issue: It used to be that one in 20 police calls dealt with a mental health issue. Statistics are showing that it's now more like one in six, and not only the effect that that has on your budgets and your costs because it takes so much of the police officer's time, but also the effect that it has on them directly, because they didn't train to be psychiatrists, but they're dealing in mental health issues so much of the time, which puts an additional pressure on the rank-and-file officers as well.

So first of all, would it not make sense—the province has to look at mental health funding as a core function of making our police officers able to do their jobs better. We've got to do more in mental health funding. Would you not agree?

Mr. Michael Palleschi: I would absolutely agree with that statement. Our Peel Regional Police have done a phenomenal job in trying to get people with the training out there to calls, but with the increase in the percentage of calls that just relate to—I hate using the term “mental health” because it's putting people in a box who essentially have a disease that is misdiagnosed and untreated. I could go on and on about that. But it's just the fact that

this issue is increasing, and I don't believe that we're ahead of it; we're certainly behind it. So it's definitely an issue.

Mr. John Yakabuski: But it certainly increases the pressure on the rank and file of on-the-street officers as well, would you not agree?

Mr. Michael Palleschi: There's no doubt. Yes, absolutely.

Mr. John Yakabuski: Have you met with the police officers themselves? You made a submission that talked mainly about funding. Have you met with them, as a municipality that has a police force, to listen to their concerns about how this bill would affect not only police morale but their ability to do their job? There are an awful lot of components in this bill that make police officers, I would say, hesitant and concerned about maybe doing their job because of the changes in this act.

Mr. Michael Palleschi: You're absolutely right. I just had a discussion yesterday with a Peel Regional Police officer. The concerns that he had—I'm sure I don't have time—were of great concern.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski, and thank you, Councillor Palleschi and Mr. Cristiano, for your deputation on behalf of the region of Peel.

The committee is in recess till 1:30 p.m.—not 2 p.m.; 1:30 p.m.—in this room.

The committee recessed from 1011 to 1331.

MR. DAVID LEE

Le Président (M. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice.

As you know, we're here to consider Bill 175 in the afternoon session. I invite our first presenter to please come forward: David Lee, director of Campus Community Police at the University of Guelph.

Welcome. Mr. Lee, you'll know we have five minutes for your opening address and then a rotation of questions, three minutes by each party. Please begin now.

Mr. David Lee: Thank you. I'm here to speak specifically to section 127 of Bill 175. That's the section that talks about the use of the word "police" in relation to special constables.

A bit of my background before we start: Prior to 2015, when I took over this job, I was an OPP inspector and commissioned officer and I worked all around the province—Far North, far south, and in the centre, around Haliburton county. At that time, I was a member of the OACP, and I'm a current administrative member of the OACP.

Campus special constables serve the University of Guelph by providing law enforcement and security services and investigating activity that may violate federal or provincial legislation. We're the front-line responders, in other words. My purpose here is to speak to you about the specific need for continued use of the word "police" by Ontario campus special constables. Not all special

constables in the province are the same. In most cases, special-constable roles are very narrow in scope, including prisoner guards, prisoner escort, court security, transit security and that kind of thing.

In contrast, special constables are front-line officers who handle calls for service within their community. At the University of Guelph, that community is over 30,000 people. A special constable who is assigned to a prisoner escort, in contrast, is provided with a very limited assignment; they do not behave or engage with the public in the same way that special constables do. I feel that they should have the word "police" on their uniform.

Special constables have authorities by virtue of appointments that are afforded only to police. At the University of Guelph, special-constable authorities are granted by appointment by the Guelph Police Services Board and include sections of the Highway Traffic Act, Liquor Licence Act, Mental Health Act, Youth Criminal Justice Act and Trespass to Property Act.

Special constables are also peace officers under the Criminal Code. Special constables can, therefore, exercise police powers under these acts, and they are doing that right now at the University of Guelph. A policing services agreement exists between the University of Guelph and the Guelph Police Service to support this front-line response. Guelph police screens all special-constable applicants, ensures that proper training is provided, provides investigative oversight, and takes the lead on a defined set of major investigations. Otherwise, front-line service is delivered by Guelph special constables.

To make the contrast with other special constables very clear, campus special constables are routinely first responders to calls which include theft, liquor infractions, assault, fraud, hate crimes, domestic violence and sexual violence—all calls that police would normally go to.

I know that many members of the public and, indeed, police officials are not familiar with special-constable powers. Without the word "police" on our uniform and on our cars, campus special constables are often mistaken as security guards. By taking away the word "police" from their branding, this would, in effect, render the workplace less safe due to ill-informed decisions made by some members of the campus community who may not understand the special constables' authority. The word "police" is universally recognizable and brings with it a basic understanding of authority by the members of the community.

The point I'm making is this: I agree that the vast majority of special constables should not display the word "police," as section 127 contemplates; they are simply not expected to engage the community in the same fashion as campus special constables do. Campus special constables serve a much broader purpose with much broader authorities. People know what a security guard is and people know what a police officer is, but very few people know what a special constable is. It causes confusion.

The word "police" on a campus special constable's uniform is for unambiguous public understanding. That's

what it's for. It has nothing to do with special constables wanting to be police officers. The word "police" is for public consumption and public understanding.

In summary, when Guelph Campus Community Police are dispatched to calls and attend, the word "police" is visible on their shoulder, as it has been since 1964. A campus community can be kept safe by the implementation of several safety programs. That's my job; that's what I do. But equally as or more important, the campus community members must feel safe. My efforts to create a safer environment are lost if the community members do not feel safe.

I'm not suggesting that any new authorities be granted, nor am I asking for any other considerations, other than maintaining the status quo with respect to campus special constables' branding: using the word "police" on our uniforms. The word "police" is internationally recognizable: It provides a feeling of safety for our campus community members and supports wellness and security on Ontario campuses.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Lee. We'll begin with the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much. I don't think that has been brought to our attention in any of our deputations so far. Have you worked with other universities? Is this a similar issue across universities? I know you're representing Guelph today, and I appreciate that, but could you just fill us in: Is this universal?

Mr. David Lee: Yes. There are 10 campuses in Ontario—nine are universities and one is a college—that have special constables. We meet in a group called OACUSA—I believe OACUSA has provided a submission to this committee—on various issues of security. We exchange ideas around this point. OACUSA has submitted a document in support of issues related to this bill, including the word "police" being displayed on our uniforms. So, yes, we are talking about that. It's a concern across Ontario.

Ms. Laurie Scott: Okay. And were you consulted or anything before the drafting of this bill, that you had been given any heads-up that this might be occurring?

Mr. David Lee: We were invited to a discussion about a year ago, here in Queen's Park, to go over this very issue. We were invited to speak with a committee and express our opinions, which we did. That was last March, I believe.

Ms. Laurie Scott: This is something that's in the bill. It's not going to be in regulations; it's in the bill, and that's very concerning to you.

Mr. David Lee: Yes, section 127.

Ms. Laurie Scott: Yes. So that's very concerning to you.

Mr. John Yakabuski: I was looking at section 117—sorry about that. Anyway, your concern is not the identification of special constables on campus; it's special constables otherwise—correct?—where they would be identified as police. Yours are identified as police, your special constables?

Mr. David Lee: They are right now. This act is contemplating taking that away. My point is that we need to

keep it to maintain the service level that we're delivering right now.

Mr. John Yakabuski: Are they contemplating, under the act—because we have not had this—taking the word "police" off all special constables?

Mr. David Lee: Yes.

Mr. John Yakabuski: Okay. I wasn't aware of that. I apologize for that.

Mr. David Lee: It talks about that no one can hold themselves out as a special constable. But it also says that no employer can use the words "police," "police officer"—and it goes through the list of types of phrases—if they have special constables. My position is: I agree, except in the cases of special constables where we need to be seen as police in our community. Being seen as police in the community is a major concern to police service boards all over the place. In our community, we have the same issues.

Mr. John Yakabuski: Are your police on the campus able to lay charges under the Criminal Code and all other—

Mr. David Lee: Yes. We can seize evidence, hold evidence and present the evidence in court. Under section 495, we can arrest after the fact. It's not a citizen's arrest or a security-guard arrest. We can arrest after the fact, following an investigation—go back days later or weeks later and make an arrest, as a police officer would.

Mr. John Yakabuski: Do they have the—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. To Mr. Natyshak of the NDP.

Mr. Taras Natyshak: Thank you very much. Can you give us a real-world scenario where this change would jeopardize public safety?

Mr. David Lee: What I see happening is, a call for service comes in on, say, a Friday night—

Mr. Taras Natyshak: On campus.

1340

Mr. David Lee: Yes, on campus. The officers go. The officers don't have the word "police" on their uniforms as we do now, and people who might not be familiar with special-constable powers—I submit that that's a lot of people—object to officers making a seizure or attempting to gather evidence or attempting to make an arrest that they feel is unlawful. They're standing up for themselves, is what they're doing.

The word "police" avoids that misunderstanding, because people know what police are. People do not know what special constables are. That's the problem that I see, so therefore it could escalate unnecessarily, to the point of physical violence.

Mr. Taras Natyshak: What do you think the rationale is for this change?

Mr. David Lee: The rationale for the change—and in broad terms, I completely agree with it—is that there are special constables that do nothing but singular tasks: moving prisoners, guarding prisoners. For doing some lab work, they have to be special constables, because of the things that they handle. They don't need police anywhere around. They don't need to be seen as police

officers. But those of us who deliver front-line service like a police officer, like I used to do as an OPP officer, need to have that word so that it's a clear understanding.

Again, this is for public perception, for public consumption. It's not for us to say we're the police; it's so that people see when the uniform is coming that that's a police officer, and that people understand how they should react or behave, and a general understanding of police powers. That's what we're after: to avoid that confusion.

Mr. Taras Natyshak: So your request is to maintain the status quo?

Mr. David Lee: Maintain the status quo for special constables on campuses.

Mr. Taras Natyshak: Okay. Thank you very much.

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Sandals.

Mrs. Liz Sandals: I do agree that certainly the perception in the community is that people would refer to you as the campus police. That's very much the perception in the university community. Thank you for clarifying that you're actually city of Guelph special constables, that you actually are special constables. I know that you've got a long and positive working relationship with the city police. If you talk to successive police chiefs in Guelph, they would say the same thing that you've just said.

Do all the campuses that have special constables refer to themselves as police, or is it just some of the special constables that call themselves campus police?

Mr. David Lee: Currently there are five that call themselves campus police. It's Waterloo, Windsor, Western, Guelph and U of T—U of T since 1904. I mean, this isn't new. Other places had it, such as Laurier, but they don't have it; for whatever reason, they've changed their name. They still retain the exact same powers. Brock doesn't have it. McMaster doesn't have it, or Carleton. Fanshawe College, actually, has special constables. They don't use the word "police" right now.

Mrs. Liz Sandals: You've pointed out that special constables can either have what you've got, which is the ability to enforce, and other special constables have other duties which really aren't police. Somewhere in this brief from the association, does it suggest what the appropriate wording would be as an alternative to what's in the proposed act now, to sort out this distinction?

Mr. David Lee: It doesn't come up with that. The common one would be "special constable," to just have those two words, as opposed to—

Mrs. Liz Sandals: Yes, but because you're suggesting that the law should distinguish between special constables with some powers and special constables with the other powers that you've got, I'm just wondering if there is a suggestion about how we would sort that out in law.

Mr. David Lee: No, that hasn't been put in our submission from OACUSA, the association that submitted that. It hasn't come yet. Nor does the letter from the vice-president of the University of Guelph contemplate that.

It's more of a position that you're in. If a special constable is hired to move prisoners, to do prisoner transport, they might have powers under one or two provincial acts, but the distinction is that special constables on campus are in a community, no different than any other community I've ever policed, and there are all kinds of issues in that community.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Lee, for your deputation on behalf of the University of Guelph.

MUNICIPALITY OF NORTH GRENVILLE

The Chair (Mr. Shafiq Qaadri): I invite our next presenter to please come forward: Mr. Carré and Mr. Sherritt of the municipality of North Grenville. Welcome, gentlemen. Please do introduce yourselves. Be seated. Your time begins now.

Mr. Brian Carré: Thank you very much, Mr. Chair. My name, as you mentioned, is Brian Carré. I'm the chief administrative officer with the municipality of North Grenville. With me today is Mr. Don Sherritt, chairperson of the section 10 North Grenville Police Services Board.

Acknowledging that our time before you is limited, our comments will focus on two key areas of Bill 175 that our municipal council has deemed will directly impact our community if the bill is passed in its current form.

Ms. Lynn Dollin, president of the Association of Municipalities of Ontario, once stated to this very committee that municipal governments are the front line to the people. This certainly holds true with this particular piece of legislation, as policing is fundamentally a local community function. As you know, council members will be the first to hear how any shortfall of Bill 175 affects their respective communities.

It is for the above reasons that we are here before you today to identify changes that we support and two critical areas of Bill 175 that we respectfully submit require your attention and subsequent change.

Mr. Chair, we will be addressing, in the first instance, the absence of detail on critical issues that affect our municipality, and, secondly, the abolishment of the North Grenville Police Services Board through schedule 1, part V of the bill.

At this time, I would like to call upon Mr. Sherritt to speak to some of the changes we support, our first area of concern being the lack of detailed information relating to proposed OPP detachment boards.

Mr. Don Sherritt: As mentioned by Mr. Carré, I would like to speak to some areas within the bill that we support.

We appreciate that the minister is taking the responsibility for police board training, something that has been lacking in Ontario and can only enhance the ability of police service boards to satisfy their responsibilities.

The municipality recognizes and supports the approach taken with respect to the establishment of section

31 municipal boards. The provisions to establish section 31 municipal boards are an enhancement to the existing legislation as they provide needed clarity and are stand-alone provisions that do not rely on unwritten regulations to outline the implementation.

An example: When it comes to the establishment of section 31 municipal boards, the bill clearly defines the size and membership of these boards. The proposed act defines how a municipality can establish either a five-member, seven-member or nine-member board and clearly defines the membership for these three options. In the case of municipal boards, there is absolutely no reliance on yet-to-be written regulations to establish the needed criteria.

While there are many examples of provisions related to OPP detachment boards that rely on the yet-to-be written regulations, to respect the time constraints I will speak only to two examples. Lack of detail makes it difficult to assess the impact that the creation that the creation of these boards may have on the ability of the municipality to establish local priorities and needs.

The first section is section 67. Section 67 states in part, "There shall be an OPP detachment board, or more than one OPP detachment board in accordance with the regulations, for each detachment of the Ontario Provincial Police that provides policing in a municipality." It goes on to say, "The composition of the OPP detachment board shall be as provided in the regulations."

The lack of detail in this provision is a concern as we understand that boards within an OPP detachment boundary will be combined to create one board.

In the case of Grenville county OPP detachment, this would involve the amalgamation of four existing section 10 OPP contract boards and one section 5.1 community committee. Each one of these existing boards and committees is representing municipalities with large variances in population and financial resources. Without knowing the composition of these boards, the question we can't answer is: Will the blending of these boards create winners and losers when it comes to cost-sharing and the development of local priorities and action plans?

Section 71 only compounds our concern. This section deals with how municipalities will share policing costs, but once again, this section references yet-to-be written regulations. Section 71 states in part: "The OPP detachment board shall submit the estimates to every municipality that receives policing from the detachment along with a statement of the municipality's share of the costs, which are to be determined in accordance with the regulations."

1350

The problem is, without the referenced regulations—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sherritt. Sorry to interrupt your remarks. We begin with the NDP: Mr. Natyshak.

Mr. Taras Natyshak: Mr. Sherritt, I'll allow you to continue and finish.

Mr. Don Sherritt: The problem is, without the referenced regulations, we don't have the needed details

to evaluate the impact that these proposed changes may or may not have on the costs of policing services and the ability for the boards to establish local priorities.

Mr. Taras Natyshak: I am sensing some frustration with the vagueness of the regulatory framework and what is to come. Am I correct? Here's a question: Does the municipality of North Grenville operate its municipal legal framework under the same sort of parameters whereby things are done post—do you have a regulatory, yet-to-be-determined regime, or when the council decides that this will be the function, whether it be through bylaw or otherwise, it's clearly articulated?

Mr. Brian Carré: Yes.

Mr. Taras Natyshak: What I want to do is welcome you to the world of Ontario politics under the Liberal Party of Ontario, whereby much of their initiatives are done after the fact, under the cloak of who knows what, at cabinet. We don't see a clear picture of what their direction is, and it's incredibly frustrating.

Mr. Don Sherritt: Not to be argumentative—and I understand exactly what you're saying—the fact is that in this particular bill, I would almost argue that there are two distinct drafting styles. When you're dealing with the provisions that address municipal boards, there is no reliance on regulations to be written. It's extremely clear. When you get into how these boards will be formed, it clearly states how a municipality will go through the bylaw process to decide whether it will be a five-, seven- or nine-member board. It clearly defines that a five-member board will consist of the mayor, a member of council, an appointed representative by council who is not a member, blah, blah, blah, and then it goes on to say that there will be two provincial members.

When it gets into the composition of a detachment board, we will have to wait for the regulations. So I understand what you're saying, but the principle has not been applied consistently.

Mr. Taras Natyshak: I understand what you're saying, and I appreciate your concern. I thank you for making your submission here today and expressing that concern, which I believe is probably shared by municipalities around Ontario.

Any other time on the clock? No. Done.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. To the government side: Ms. Sandals.

Mrs. Liz Sandals: Yes, thank you. What is the situation right now? Is there a North Grenville police service board?

Mr. Brian Carré: Yes, there is.

Mrs. Liz Sandals: I'm assuming that there is a detachment somewhere. How many police service boards are there for that detachment?

Mr. Brian Carré: There are four section 10 police services boards, and one section 5.1 within Grenville detachment.

Mrs. Liz Sandals: Okay, so depending on how you look at it, there's four PSBs plus another municipality all coming under one detachment. Is the issue that you don't want to have a consolidated board, or is the issue that you

want to have more influence over the rules on how that's made up?

Mr. Brian Carré: I think I would say “both,” with all due respect. As Mr. Sherritt explained, we have nothing in the bill that guides us as to how these detachment boards will be established when we compare it to section 31 on municipal boards. Where we get very anxious, and it's in pieces that I'd like to bring to your attention, is that the municipality of North Grenville is the third-fastest-growing community in all of eastern Ontario per capita. We've experienced growth of 1.3%, on average, since 2001, by census, and between 2016 and 2017 that increased to 1.7%. What happens is that, of our colleagues within the proposed detachment area, two are experiencing decreasing growth and two have very limited growth.

I would suggest that we are extremely influenced by the city of Ottawa, for a lot of good things, but when you look at the experiences that we have been seeing, there is an increase in violent crime and property crime committed by individuals that reside in Ottawa. We are perceived by these perpetrators as not having modern urban policing systems, which makes us, in their minds, an easy target.

We are of the opinion that we are unique. We are a community in transition. We are growing. If you know the city of Ottawa and the outskirts—places like Barrhaven, Kanata—they've all exploded in the last 15 to 20 years. It's spilling over adjacent to the city, which is where North Grenville is, because we border with Ottawa and with the Rideau River.

It's a two-sided concern. Yes, we don't have that information, but we would submit that the bill needs to recognize that some municipalities are in unique situations. It may not be to their advantage to be grouped together in a detachment board. What we're trying to show you this afternoon is that we are one of those municipalities. We firmly believe that we are unique and cannot be brought into a general—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. To the PC side: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much for joining us today, Brian and Don. I was looking at section 31, and I think I completely get your point. It's very definitive. There's not much left to wonder about how the board is going to be composed and how it's going to function. When I look at the other sections that you looked at—67, 71 etc.—it's quite vague. In fact, there's nothing prescriptive at all. I can understand your concern.

The bill was tabled on November 2. In that period of time, either through AMO or through ROMA, because I've got to believe that North Grenville is not—I come from a rural area too. We have police services boards that are going to be asking the same questions. Through AMO or ROMA, have these concerns been taken to the community safety minister's office, or to the Attorney General's, and have they been asked, “Why are we being left in the dark?”

To the point of Ms. Sandals, you're wondering how you're going to manage your police services when you

don't even know how the boards are going to function or be made up. This is all of a sudden going to become law. You're the ones who are going to have to pay the policing costs, and you have absolutely no way of even estimating what those costs are going to be. Is that a fair way of putting it?

Mr. Brian Carré: It's an absolutely fair way of putting it. To your question, sir, we've reviewed the submissions from ROMA and AMO, and I believe AMO does a good job with respect to the implications of establishing the detachment boards and the impact on section 10 police services boards.

I know that my colleague Mr. Sherritt has been in communication on many occasions with the Ontario Association of Police Services Boards. If we can leave one recommendation with this committee, it is that the disbandment of any section 10 OPP contract police services boards should be a municipal decision rather than a provincial one, because at this time, as you say, we have no criteria. There is no specific information to guide municipalities, and the residents of our community are fearing that this will contribute to increased costs and a loss of autonomy.

Mr. John Yakabuski: Thank you very much. I appreciate that. We'll look over the AMO submission and see if there's an appropriate amendment that could be tabled from them.

Mr. Brian Carré: Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Carré and Mr. Sherritt, for your deputation on behalf of the municipality of North Grenville.

MS. SAMIAH IBRAHIM

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Samiah Ibrahim. Welcome. Please be seated. Your five minutes for introductory remarks begin now.

Ms. Samiah Ibrahim: Good afternoon, and thank you for allowing me to present my view before this committee, specifically with regard to schedule 8, the Forensic Laboratories Act.

My name is Samiah Ibrahim. I am a forensic document examiner working in both the private and public sectors. I received my forensic training in the laboratories of the Canadian Security Intelligence Service and worked there for four years as an examiner. I then moved to the department of Revenue Canada, customs and excise, which evolved into the present-day Canada Border Services Agency.

I am a member of the American Academy of Forensic Sciences and on the academy's international affairs committee. I am a member of the Chartered Society of Forensic Sciences and a member of the American Society of Questioned Document Examiners, for which I hold the office of membership and credentials committee chair. I am active nationally and internationally.

1400

For the past eight years, I've been the manager of CBSA's forensic document examination section, with a

staff of 12 scientists and technicians, all working on casework for a variety of clients. For example, we conduct our work for CBSA directly; for Immigration, Refugees and Citizenship Canada; for the Canada Revenue Agency; and, from time to time, for other clients as well—federal, provincial, US and international.

Our reports are used in matters before criminal court, civil proceedings, the Tax Court of Canada, and administrative tribunals such as the Immigration and Refugee Board, which is Canada's largest independent administrative tribunal and is charged with hearing and determining claims for refugee protection.

Our casework spans issues of criminal fraud with respect to immigration, taxation, customs and excise, election fraud, employment fraud, national security and war crimes, to name a few.

I'm not here representing the Canadian federal government or the CBSA. My words and opinions are mine alone and do not necessarily represent those of my federal employer. However, I mention our work to provide you with a better idea of the scope of work of forensic document examination at the federal level.

As a private forensic science provider, I work with one other forensic document examiner to conduct casework for private sector clients not in conflict with the federal government, as well as in capacity development in forensic sciences. In this venture, we also work both nationally and internationally.

I have several concerns with the proposed legislation regarding mandatory accreditation of forensic laboratories because I believe the scope is too broad and without appropriate consideration about how forensic science is currently used in the many legal settings in Ontario, what constitutes forensic science, and how specifically this will impact the private sector, the public sector and the justice system.

I understand why accreditation is seen as a good tool to ease concerns about quality assurance of outputs for management, but I don't believe it's a panacea to prevent errors. Some very public errors have been the result of non-forensic providers assuming they can work forensically without appropriate training or work practices. Just because you are a scientist will not make your methods and work forensically acceptable. We in the forensic science community are keenly aware of this, as evidenced by the progress made since the release of the 2009 American National Academy of Sciences report. We continuously work to improve our science, our methods and our communication of results to ensure we are easily understood by all stakeholders, not overstepping our scope or giving in to bias. In Canada, forensic science has piggybacked on this effort because there is no Canadian equivalency studying forensic science nationally.

Each time I have appeared in court, been subjected to cross-examination or spoken with clients or lawyers, I have explained my credentials and why I am qualified to offer opinion evidence. Quality is fundamentally anchored in the individual performing the work. In my 24

years as a practising forensic scientist, I have only been asked once in court if my laboratory is accredited.

For the majority of private forensic scientists, the cost of accreditation is prohibitive and the logistics illogical. Private examiners cannot afford the financial demands of accreditation and will not or cannot hire a quality assurance manager to oversee their single-person company.

Given the many forensic disciplines that exist, what consideration has been given to all of the other forensic reports provided to the judicial system outside of the typical crime lab?

There are many examples of non-obvious providers and users. The Ontario College of Physicians and Surgeons uses private examiners in their fraud investigations. Manufacturing companies, such as the producer of the Canadian passport, conduct forensic analyses. And what about out-of-province forensic science service providers?

Private examiners are retained by clients in all matters—criminal, civil, regulatory and in tribunals. Public institutions use private examiners. I expect in our adversarial court system to have an opposing expert. With the criteria of accreditation legislated by the Ontario provincial government, this expectation will be curbed.

The proposed legislation will result in a two-tiered justice system wherein the crown will have access to forensic science and others will not. There will be few, if any, forensic science expert witnesses available—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Ibrahim, for your introductory remarks. We'll begin with the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation. Do you want to wrap up what you just said so that—I want to hear what you have to say.

Ms. Samiah Ibrahim: Thank you. It's just two sentences. There will be few, if any, forensic science expert witnesses available to the defence and even fewer for legal aid cases or other lower-income defendants. Without access to adequate private forensic science service providers, the province will be limiting the ability to launch a proper defence.

Ms. Soo Wong: Okay. My question, through the Chair to you: If this legislation is passed, the province of Ontario will be leading the way to have accredited, certified forensic laboratories. What I'm hearing, from what you presented orally as well as your written submission, is that you don't support that model.

Ms. Samiah Ibrahim: I think that model is too broad. For public laboratories and for large institutions, that model will work just fine. But for private labs, for the university professor of anthropology who also conducts forensic anthropology, for a single-person forensic document examiner like myself, the logistics behind ISO accreditation or the Standards Council of Canada don't really allow for an accredited model of a sole provider.

Ms. Soo Wong: Okay. My next question is—pushing out the evidence-based, given the concerns that the government just recently had with the Motherisk file—

how do we elevate your sector to be accredited, to be recognized? No hospital in Ontario is unaccredited and no long-term-care facility is unaccredited. How do we encourage your sector? Because Ontario is leading the way on a number of fronts—whether it's OHIP+, the pharmacare file, the pension file—

Ms. Laurie Scott: Hah!

Ms. Soo Wong: You can laugh all you want; it's true, okay?

My question to you: How do we ensure that your sector is elevated in terms of accreditation? Because health care should be evidence-based, right?

Ms. Samiah Ibrahim: Absolutely.

Ms. Soo Wong: How do we ensure these forensic labs to be at that level? Because I know that, across Canada, it's hit-or-miss. I hear the concerns that you raised about the smaller laboratories and the concerns about that piece. How do we ensure that every forensic lab in this province is at the accreditation level? Because their lives are going to be affected.

Ms. Samiah Ibrahim: Accreditation is an external, third-party oversight that says that the management of the laboratory is going well. If you're a sole provider, if you're working for yourself, then you are accountable. From my knowledge, all forensic examiners in almost all of the disciplines have a certification process. Accreditation is third-party oversight; certification—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Wong. To the PC side: Ms. Scott or Mr. Yakabuski, as you like.

Ms. Laurie Scott: Okay. I'll just follow up quickly and then hand it over to Mr. Yakabuski.

Following up on Ms. Wong's point: You feel that you, as a sole forensic auditor—I'm not sure—

Ms. Samiah Ibrahim: Document examiner.

Ms. Laurie Scott: Thank you; document examiner—that you will never be able to actually be accredited under the present form of this bill. You, as well as other sole providers, wouldn't be able to afford to. Am I getting the right drift of what you're saying?

Ms. Samiah Ibrahim: Yes, just because of the logistics, because the way that ISO and the SCC have arranged the concept of accreditation is for a larger provider.

Ms. Laurie Scott: Do you have any other jurisdictions that do it differently that you can—

Ms. Samiah Ibrahim: The entire world seems to be struggling with this right now. Accreditation is for large organizations; what do we do with sole providers?

Ms. Laurie Scott: Okay. Sole providers: How much are they used now in cases, as opposed to—

Ms. Samiah Ibrahim: Public laboratories don't typically do private casework. Anything in the private sector, anything for civil court, any defence that you want mounted—if you want to defend yourself and hire a forensic expert for whatever discipline in forensic science that you need, you have to go to the private sector route. There are no public laboratories that are available to you.

It's the entire other half and the entire civil sphere that will be affected by this.

Ms. Laurie Scott: Okay. Go ahead.

The Chair (Mr. Shafiq Qadri): Mr. Yakabuski.

Mr. John Yakabuski: Just one question—because you are talking about court proceedings and prosecution versus defence—is there anything in this act that prevents you, if you're called as an expert witness by the defence, from testifying in court and bringing your expertise and showing that as part of an examination that you yourself have conducted? Is there anything that prevents you from actually testifying? The accreditation has nothing to do with your ability to testify, correct?

Ms. Samiah Ibrahim: It has everything to do with my ability to do the examination and write a forensic report that will be tabled in court.

Mr. John Yakabuski: You cannot conduct the—

Ms. Samiah Ibrahim: As a sole practitioner, I could not conduct forensic work, as deemed under—and it's very vague, as it's written now, on which forensic tests would come under this. It just says "forensic tests as prescribed." I don't know where they're prescribed.

1410

Mr. John Yakabuski: So it's somewhat vague. But I'm concerned: If you're saying what I think you're saying, this law, this bill as written today, would essentially put you out of business as a private contractor for forensic testing?

Ms. Samiah Ibrahim: Many, many private examiners would be put out of business, yes.

Mr. John Yakabuski: Okay. Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Yakabuski. To the NDP: Mr. Natyshak.

Mr. Taras Natyshak: Thank you very much for being here. Thanks for informing us.

Are there standardized models of forensic investigations in your universe, in the document examining or financial auditing?

Ms. Samiah Ibrahim: Not financial auditing. Document examination is the scientific examination of documents to link them to people, places or events.

Mr. Taras Natyshak: Where are those standardized models derived from?

Ms. Samiah Ibrahim: Presently there is an American standards board that creates standards that we abide by. In Canada, we're too small to create our own; this is why the piggyback. European models have standards, and we ascribe to those, as well as Australia and New Zealand, so there are international standards for the work we conduct.

Mr. Taras Natyshak: In your line of work, you reference those standards in applying the work that you do when you're required to present evidence.

Ms. Samiah Ibrahim: Yes.

Mr. Taras Natyshak: Would that change between a forensic business that is accredited and one that isn't? Would those standards change?

Ms. Samiah Ibrahim: They should not.

Mr. Taras Natyshak: So essentially you're both doing the same thing. One is accredited, one has been verified by a third party, and one has not, but you're still applying the same principles and the same standardized models that are accepted generally in civil courts and everywhere else.

Ms. Samiah Ibrahim: We should, absolutely.

Mr. Taras Natyshak: We should, or we do? Is there variance?

Ms. Samiah Ibrahim: I do. I cannot speak on behalf of every other forensic provider in the province. But this is what the court system allows, the adversarial court system where I am challenged in court to show how I have done my work, to show my credentials, to show the standards I used and how I administered those standards. Every single time I testify, that is challenged.

Mr. Taras Natyshak: Is there a peer review model as well?

Ms. Samiah Ibrahim: Yes, of course. It is best practice for all casework to be peer-reviewed.

Mr. Taras Natyshak: Really? I'm learning a lot here. Thank you very much.

Well, you've presented another area in which I don't think the government has quite duly considered the ramifications of the bill, so I appreciate your information. Thank you so much for being here.

Ms. Samiah Ibrahim: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Ibrahim, for your deputation.

EASTERN ONTARIO WARDENS' CAUCUS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Robin Jones of the Eastern Ontario Wardens' Caucus. Welcome, Ms. Jones. You've seen the drill. You'll have five minutes in which to make your opening address. Please be seated, and please begin now.

Ms. Robin Jones: Thank you very much. As you've heard, my name is Robin Jones. I'm the mayor of the most beautiful Victorian village in Ontario, called Westport, and I am the chair of the Eastern Ontario Wardens' Caucus. In case you're not aware, the caucus is an incorporated not-for-profit organization comprised of the heads of council of 11 counties and two single-tier municipalities in eastern Ontario. We represent almost 25% of municipalities in the province.

There are many good parts of the act I'm going to talk about, and three on which we have some significant concerns.

The first issue is the lack of civilianization, of increased roles for civilians or non-sworn people, in police services. When I was at AMO in Windsor and Minister Naqvi announced that the Police Services Act was going to be opened up, I was gobsmacked for a moment and then pleased the next moment, because it had been around for so long. I truly hoped, as a former chief of police, that civilianization would move further.

When I was in charge of OPP uniform recruitment and deployment, we had filing cabinets full of applications. It

took about a year to process an application because so many people were applying to the police service. As you're well aware, that's not the case anywhere across North America. So one has to wonder, when many of the jobs proposed by AMO and other organizations don't require a sworn officer to do the job, why we wouldn't be more strategic and allow some more civilianization where there are people who could easily fill those positions, and not have to require the police training. We would be able to bring a much more diverse community into policing by also extending the civilian roles in other areas. Hiring civilians who have the competencies, experience and training to perform many of the roles just makes sense. It makes a much better police service.

The second issue I wanted to talk about is police services boards. We know that the Police Services Act is going from what we would call the old section 10 and that there will be a police services board per detachment area. Here are a few concerns.

Most of the communities in eastern Ontario are the old 5.1s. They were not part of a police services board, but they had access to the police personnel and the detachment commander through community policing advisory committees.

This bill would eliminate almost 100 police services boards. Particularly in rural Ontario and specifically in rural eastern Ontario, these are large areas, and we need to have some consideration in a couple of areas. We need to ensure that each municipality has a representative on the police services board. Diversity on the board is necessary, but in addition to diversity, we need to make sure that we are appointing people with the competencies, skills and experience to do the job. I don't think we want police chiefs training members of the police board in organizations—or perhaps you do. I know there's the OAPSB, and they do a great job. When it comes down to the day-to-day work, though, it's often the police chief who is sharing this information with the board. So we need to ensure there's diversity, and we need to make sure that the police services board appointees have the requisite competencies and skills, and that the provincial appointments are done in a timely way.

Removing the sections 5.1 and the 10 opportunities really makes me feel that gone are the community policing officers and gone are the zone officers. There's nobody in my community who's there on a regular basis anymore. If you make a complaint to the police—I'm an hour away from Brockville, which is where we are policed out of in my community, but it may be that that in any other community is where the police detachment is.

Finally, the community safety and well-being plans: I am confused, to say the least, and I am concerned and I am shocked that we would mandate—when the adequacy standards came into being, when they were first proposed, they were so strict. And then they softened a bit, and you know, they've worked. The direction that the community safety and well-being plans are going, with

no involvement of police, with no money to fund it, with no guidelines, and yet with the authority to mandate it in the communities, is beyond me.

With a community safety issue, how do you move forward unless the police are involved so that there can be buy-in? How do we compel the provincial agencies who are supposed to be part of the community safety boards to be there? Who's going to pay them? How do we arrange it? What authority do they have?

I guess, finally, in wrapping up, nowadays we know officers—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, for your introductory remarks. We will now move to the PC side. Mr. Yakabuski?

Mr. John Yakabuski: Thank you, Robin, for joining us today.

Ms. Robin Jones: Thank you.

Mr. John Yakabuski: Thank you for recently hosting us in the beautiful community of Westport, an hour away from Brockville. That is the closest police detachment to you?

Ms. Robin Jones: No, sir, it's not.

Mr. John Yakabuski: No?

Ms. Robin Jones: No, there's much closer, but that's an ongoing discussion with the OPP. Perth is 20 minutes away.

Mr. John Yakabuski: Perth is 20 minutes, on the other side.

Ms. Robin Jones: "Different court jurisdiction" is the explanation, but 34 years of policing has me challenge that.

Mr. John Yakabuski: I appreciate the concerns that you're levelling here today. Some of them would be similar to the ones of North Grenville with regard to police boards, but you're also talking about the delivery of community safety services.

Ms. Robin Jones: Correct.

Mr. John Yakabuski: Can you be a little more specific about some of the tasks that you think could be conducted by non-sworn officers in communities such as yours or mine, and all the rural communities—in any community?

Ms. Robin Jones: Sure. So, civilianization?

Mr. John Yakabuski: Yes.

Ms. Robin Jones: Yes, just so I'm on board.

When you consider that police officers come off the street to be hired, they have an education, but most things you need to train them for. We could train non-sworn people who don't need a use-of-force option to do the job. So there are many things. Where do I see that it's a waste of time for me to have a uniformed officer? Guarding crime scenes; offender transport; investigating minor property offences.

Many police services have long stopped rolling a police officer to the scene, and they call it by a different name, but you phone your complaint in. That could be easily staffed by civilians. And if there are issues, we could have criteria in place so that if there's an investigation, if there's a serial matter, any of those other dramatic

things that we hear, it could be given to a police officer. There is no reason for a police officer, with all the use-of-force options, to go out and direct traffic, run radar and other things. We've got research all across North America and in Europe where they have changed sworn officers and replaced them with civilians, and the world's not falling apart. They're doing a great job.

1420

It also gets the opportunity to bring some more diversity into it, and a whole separate set of skills.

Being a beat officer, being a senior officer in a regional police, the OPP, and then the chief of Nishnawbe-Aski police, I love having more police officers because the argument is "more depth." But the reality is, there is a strong role for civilianization and I'm not sure why we stopped so short.

Mr. John Yakabuski: I know you're here representing not only Westport but the Eastern Ontario Wardens' Caucus, and congratulations on being elected to the—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. To the NDP side: Mr. Natyshak.

Mr. Taras Natyshak: Thank you very much, Your Worship. Thanks for the information you've provided. Thanks for the work and the service that you've provided throughout your career as well. We appreciate that.

Are you suggesting that there was a hard stop at the use of civilians for some of the roles that you had just highlighted in place of where they've opened up some of those roles to private security forces that may provide those services?

Ms. Robin Jones: I'm not suggesting that. I know your question—so you would have to ask a different way for me to go there.

Mr. Taras Natyshak: But is that why there weren't two options given?

Ms. Robin Jones: Are there two options given in the draft bill?

Mr. Taras Natyshak: Yes.

Ms. Robin Jones: Yes, there is.

Mr. Taras Natyshak: Okay. Explain that to me.

Ms. Robin Jones: Well, you can explain it. I'm confused by that—that it seems that private policing gets a significant toehold in the legislation, where why wouldn't we apply those same job functions to our own civilian employees? There is so much to be made for blending the civilians with sworn people, as far as the effectiveness of the police agency as a whole.

Mr. Taras Natyshak: Do those civilians have a pipeline into then becoming full, sworn officers down the road? Is that typically a career path that people—

Ms. Robin Jones: It's a pool. It's certainly a pool of candidates, whether you're talking about civilian employees, people in the auxiliary program or co-op, because it helps them in the process during their interview. They're much more worldly; they have a better idea of what policing is all about. In all of those organizations that I've worked for we very clearly see civilian staff and auxiliary members as a pool for recruitment. They're not too happy, sometimes, when we

go and recruit from them for the sworn side of it, but yes, it really helps in the process.

Mr. Taras Natyshak: When you commented on the requirements of the mandated community safety and wellness planning, your comments were that there are just no resources attached to this to allow you to actually develop that.

Ms. Robin Jones: There are no resources and there is no plan. In my municipality, there would be a bit of an advantage because I sit as head of council. But where are you going to start without the guidance, the buy-in and the support of the police? It boggles me that there is going to be this plan that the police need to be part of once the plan is approved, and yet there is no police involvement.

It also bothers me that this is a whole other layer of bureaucracy in the ministry. Ministry people are here today so they need to hear that. The 444 community safety plans to get approved by the minister—well, that takes people. I'm sure that Matt Torigian doesn't have those people in his shop today to take care of that, so what is the purpose? I don't see the benefit of them. I don't know how we compel people to be—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. To the government side: Ms. Wong.

Ms. Soo Wong: Madam Mayor, thank you for being here today. Pushing out your comments, I just want to get clarification: You want the government of Ontario, in this proposed legislation, to expand further the civilian officers in the various police forces across Ontario? Have I got that?

Ms. Robin Jones: I don't think you meant that as a question.

Ms. Soo Wong: Okay.

Ms. Robin Jones: I want them to expand the role of civilians, not officers.

Ms. Soo Wong: Civilians, yes.

Ms. Robin Jones: That's correct.

Ms. Soo Wong: I want to make sure I got that, because—

Ms. Robin Jones: I sat on the AMO task force for modernization of policing, so I'm well aware of the research that we put together—solid research of where it has worked in other jurisdictions.

Ms. Soo Wong: This is great to hear, that piece.

Now, you made some comments on the community safety and well-being plan. I heard that piece. I wanted to get some clarification, because this particular plan—if this legislation is passed, it will provide more flexibility for your board to meet local needs.

You commented earlier about the diversity piece. Every policing board is very unique, and local needs have to be respected. If the legislation is passed, it will provide your board more opportunity to collaborate with the various organizations to meet your needs, but I hear you express concern about this particular plan. Can you drill down some more on what some of the concerns are? Can you clarify?

Ms. Robin Jones: Sure. A couple of things that, with respect, I challenge in what you've said, that the police services board will be unique and drilled down for local needs. Where is that information going to come from, to a police services board? One would assume it's going to come up through the chain of command to the detachment commander by the chief of police, but that person is not on this committee. That's the gap.

You can stipulate in the legislation that they not chair it, but if they don't have that involvement of law enforcement—we're talking about social issues. How are we going to get the police, then, to come and say, "We've got this plan, and we have to put it in place"? You play a big part in putting it together and being able to demonstrate to the minister that it was a good plan and it worked.

To get buy-in, you need the police on the committee. Maybe it would be natural that they may want to chair it, so make it that they don't chair. But they need to participate. You need to give guidelines to the municipalities on really what you were expecting.

My municipality, as beautiful as it is, has a population of 700 people. Because the way the act is worded, I would expect a seat for my municipality on the police services board, but that probably is not going to happen. At the same time, my needs are going to be much different because, although we're rural—it's a small village—the township we would be policed by—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong, and thanks to you, Ms. Jones, for your deputation on behalf of the Eastern Ontario Wardens' Caucus.

Ms. Robin Jones: Thank you very much.

CANADIAN CORPS OF COMMISSIONAIRES—KINGSTON AND REGION DIVISION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward: Mr. Herfst and Mr. Voith of the Canadian Corps of Commissionaires—Kingston and Region Division. Welcome, gentlemen. Please be seated. Do introduce yourselves. Your time begins now.

Mr. Bert Herfst: Thank you, Mr. Chair and members of the committee. My name is Bert Herfst. I'm the chair of the board of governors of the Kingston and region commissionaires. With me is my CEO, Mike Voith.

We have a single, fairly straightforward issue that we would like to draw your attention to. In summary, that is that the Ontario divisions, which I represent here today—there are four divisions—desire an amendment to the bill to clarify that not-for-profit corporations will be included in the prescribed entities that may provide certain policing functions described in section 14 of the bill.

By way of background, the Canadian Corps of Commissionaires is a federation of independent not-for-profit corporations comprised of 15 divisions, four of which are located here in Ontario: Commissionaires Ottawa, Com-

missionaires Great Lakes, which is Toronto, Commissionaires Hamilton and ourselves, Commissionaires Kingston and region.

The four divisions employ approximately 6,000 trained security personnel and generate in the order of \$180-million worth of gross annual revenue. Fully 95% of that gross revenue is returned to our employees in salary and benefits.

The Ontario divisions are incorporated under either federal law or under the Ontario Corporations Act. The objects of each of the corporations include reference to the public benefit foundation of the corporation being for the purpose of providing meaningful or suitable employment to veterans of the Canadian Armed Forces, Royal Canadian Mounted Police and others. This social mandate is the core principle that guides our business considerations when seeking out employment opportunities for our veterans and other employees.

1430

Nationally, the corps has been in existence since 1925. It is the largest private employer of veterans. We offer a wide range of security services, including professional guarding, monitoring and surveillance, threat and risk assessment, bylaw enforcement, digital fingerprinting, criminal and employee background screening, investigations, and security training.

Of note, in light of the proposals found in the bill, the corps of commissionaires has gained significant experience providing non-core policing functions with both municipal police and the RCMP across western Canada and the Maritimes as well as in some of the Ontario municipalities.

Bill 175 includes a very welcome proposal, in our view, to allow private sector corporations to undertake certain policing functions, thereby giving police services boards a useful tool to more economically achieve overall effective policing in their respective communities. It is recognized that the intent of the legislation is not to displace the police; rather, it is to permit a limited and enumerated range of policing functions not requiring police or peace officer status to be undertaken by those in circumstances where it makes good sense to do so. I think Mayor Jones has adequately addressed that issue.

Throughout section 14, the bill uses several different terms. Here's where the issue lies for us: these different terms that refer to those who may provide certain policing functions.

Subsection 14(1), for example, refers to police services boards or the commissioner entering into written agreements with "a prescribed entity." Then in subsection 14(3), when referring to those who are limited to providing only certain policing functions, the provider is referred to as "a for-profit entity." Subsection 14(4) then defines this term as meaning "a corporation incorporated under the Business Corporations Act or the Canada Business Corporations Act." Nowhere do we refer to legislation with respect to not-for-profit corporations.

It's our view that the drafters of the bill likely did not understand that the corps of commissionaires includes

not-for-profit corporations. Nor were they aware that we have a long history of providing non-core policing support to many municipalities.

We certainly believe that there is a gap in the legislation which needs to be remedied. For that, we would suggest that the terms that I've made reference to be changed so that they include both for-profit and not-for-profit entities.

We certainly welcome the initiatives contained in this bill to improve the provision of policing services but, given our extensive experience, we would like to be able to continue to assist—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Herfst, for your introductory remarks. We now pass it to the NDP: Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Mr. Herfst, for your submission. Thanks for clarifying that the bill does contain provisions for providers to outsource and to privatize some of the aspects of their policing. It was argued by the government during the debate when the bill was initially tabled that that wasn't the case, but I read it as you do, and so here we are.

My question is, where the commissionaires already do provide policing services that you would like to provide in Ontario—you mentioned western Canada, I believe, and the Maritimes were mentioned as well?

Mr. Bert Herfst: Yes.

Mr. Taras Natyshak: Do they operate under the same scrutiny as a regional policing or provincial policing unit would? Are they beholden to the same policing oversight mechanisms and accountability mechanisms? Or is there a separate set of rules that allow them to just operate and do the duty and not be liable in any sense?

Mr. Bert Herfst: There are standards applicable to the security services industry to which our employees have to comply. But they are not peace officers nor do they have peace officer status, so it wouldn't fall under the regime that deals with those who have that status.

Mr. Taras Natyshak: If it was, if the regulations were changed where now, even though you are a non-profit agency that is providing duties that fit the parameters of those non-sworn officers—do you believe that your model would be able to maintain its profitability? Or do you think it would even be viable, given that there would be an extra layer of accountability and scrutiny and oversight built into the job that you would do?

Mr. Bert Herfst: I don't believe that oversight and extra scrutiny would be of any particular harm to our service, because we are a premier security provision service and we like to think that we set the standard.

Mr. Taras Natyshak: What if somebody else is setting the standard for you now and that standard is aligned with those that are applied to sworn-duty officers? Do you think there would be some costs associated with that in terms of mandating quality and training? I'm sure that already happens, but now you're stepping it up. Now we're saying that yes, you can do

this job but we are treating you under the same laws that govern sworn officers.

Mr. Bert Herfst: Again, I would simply say that were that the case, were those new requirements imposed on us, we feel that we could meet those standards. If there is a cost involved with it, it would be part of the overhead that we would have to consider.

Mr. Taras Natyshak: And that it might potentially change the viability or the savings that a regional force might find—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. To the government side: Ms. Sandals.

Mrs. Liz Sandals: I'm just making sure I follow you. You support Bill 175 and what it says with respect to companies being able to do some non-core policing services. Any accountability requirements that are in there, you're supportive of that as well.

Mr. Bert Herfst: We would be, yes.

Mrs. Liz Sandals: Okay. So if I understand you correctly, then, your concern is that your particular group of commissioners would be excluded from providing those services because you're actually not a for-profit private company; you're a not-for-profit private company? Am I following this right?

Mr. Bert Herfst: You're right. The point is that the legislation only refers to for-profit corporations and it only refers to the Corporations Act and the federal business corporations act.

Mrs. Liz Sandals: Then precisely what is the change that you're requesting?

Mr. Bert Herfst: If there were a reference that included not-for-profit corporations, either directly in the definition or by reference to the Not-for-Profit Corporations Act of 2010, which is still not in effect but could be added to the definition, and reference to the federal not-for-profit corporations act, which came into effect in 2014, then it would be clear that not-for-profit corporations such as ourselves would be eligible for consideration when it came time to employment in these non-core policing functions.

Mrs. Liz Sandals: Is it your feeling, then, absent those changes, that the commissioners would not be able to do the work they're doing now or just that you're concerned that's a possible interpretation?

Mr. Bert Herfst: It is my reading of the legislation that the absence of reference to not-for-profit corporations lends doubt to whether we would be eligible. Given that we currently provide non-core policing, we would like to continue to do so, and it would certainly provide certainty in the language of the bill if those additional pieces were in there.

Mrs. Liz Sandals: Okay. Thank you. That clarifies what you're looking for.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. To the PC side: Mr. Yakabuski.

Mr. John Yakabuski: Thank you for joining us today. I was getting a little sidetracked with the questions

from Mr. Natyshak. I don't think for a moment that your group is looking to deliver the core services of policing.

Mr. Bert Herfst: Not in the least.

Mr. John Yakabuski: I just wanted to clarify that, because it sounded like you felt you could provide them if that was the mandate, but you're not looking to do that.

Mr. Bert Herfst: No.

Mr. John Yakabuski: It says, "The Ontario divisions were incorporated under either federal law or the Ontario Corporations Act." So that is different than the Business Corporations Act or the Canada Business Corporations Act.

Mr. Bert Herfst: That's correct.

Mr. John Yakabuski: Correct. So those are the two challenges. If they had been under the Business Corporations Act or the Canada Business Corporations Act, they may qualify, or would we still have to have the non-profit salutation in there to make sure that you were covered as a non-profit?

Mr. Bert Herfst: There is a distinction in the law between a for-profit and a not-for-profit. We are the not-for-profits who have been left out of this particular piece of legislation.

Mr. John Yakabuski: I see that. So really, all that would need to be done is an amendment that allows specifically the commissioners—because most people probably don't realize you're non-profit.

1440

Mr. Bert Herfst: And they probably don't realize that we are not part of government, that we are completely self-supporting and self-sustaining, and that we have that social mandate, yes.

Mr. John Yakabuski: Most people would think that because you employ people, you're not a non-profit.

Mr. Bert Herfst: Right.

Mr. John Yakabuski: I don't know if this was out of omission or neglect, but it would seem to me that as it is written now, you could not enter into a contract with an entity that required security and in the past would have had it delivered by the commissioners. You no longer could provide that under this act, as it is written. Is that correct?

Mr. Bert Herfst: It's my position that there is uncertainty, some real doubt, and those people who would be administering the act would not know for certain whether we could or could not.

Mr. John Yakabuski: So clarification for non-profit would satisfy the qualification that would allow you people to continue to do the good work that you do and employ more veterans than any other group out there.

Mr. Bert Herfst: Exactly.

Mr. John Yakabuski: I thank you for your time and appreciate your submission.

Mr. Bert Herfst: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. As do we, Mr. Herfst and Mr. Voith, for your deputation on behalf of the Canadian Corps of Commissioners.

GARDAWORLD

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, Mr. Christian Paradis of GardaWorld.

Welcome. Please be seated. Your time begins now.

Hon. Christian Paradis: Thank you very much, Chair. I want to thank the members of this committee for inviting us to appear before this committee for hearing our perspective. GardaWorld is one of the largest private security companies in the world. This is a Canadian-born and -based company.

First and foremost, what we are advocating for in regard of this bill is outsourcing of support services. We're not advocating whatsoever about police privatization. We don't want to take any jobs from police officers. We have high respect for police officers. What outsourcing means for us is security guards performing support duties so police can focus on their core duties or their key front-line duties. Then, after that, they have full support from the private sector.

We welcome the tabling of this bill. As we all know, policing is becoming more and more unsustainable, and the costs of policing are constantly increasing. This is why we need to find some solutions to make sure that we can still deliver good-quality services to our population.

There was an event that was held last year in Ottawa, gathering many people from across the spectrum, including union officials, the private sector, chiefs and others, to have this inclusive discussion and see what could be done. There was an agreement about the fact that we need to change some things in terms of management and others, but also that partnership could seriously be considered. There were questions about the public's opinion, though, and I will come back on that.

If I come back on the bill itself, of course, this is, for us, a good point. We think, though, that the private sector can provide a lot more than the tasks that are listed in section 14. I'm going to give some examples, even if I have heard some so far. Also, crime prevention in section 14 should be widely interpreted to make sure that we can ensure some flexibility here. On the regulation aspect in section 200, also, we should make sure that it allows for flexibility to regulate and bring adjustments when needed.

In terms of examples of support, when we speak about security for major events, detention services and transportation, traffic management and bylaw enforcement, we can consider the same things on the administrative side: facilities management, administrative support, vendor and front desk management, fingerprinting, and so on and so forth.

Now, the question is, where do Canadians stand on this? There was a poll conducted by Ipsos Public Affairs last November, and 60% of Canadians support this proposal. But also, it was made clear that this proposal is never to the detriment of public safety. It's always a hand-held-out approach in terms of being complementary.

The industry now looks like this: There are 140,000 licensed guards throughout the country. Several organizations oversee this. We also keep pushing, always, for having better regulation, for having better professionalization. How to do it? I heard some questions. Of course there are some case studies that I've put in my presentation—

The Chair (Mr. Shafiq Qaadri): One minute.

Hon. Christian Paradis: Yes, thank you. And then, of course, by the contract, we have to define the scope, set the boundaries, put strong KPIs and then, after that, constantly monitor.

One great case study we can cite is the Canadian Air Transport Security Authority, where it is managed by the federals, but, when you get to the pre-boarding screening process, this is done by the private sector with strict KPIs. We are doing this already.

Finally, just about what I heard from the commissioners, I just want to make sure that we level the playing field in the sense that the restrictions are not only for the not-for-profits. If it's the intent of the government to have the non-profits not listed on this restriction list, I will come from the other side and say that we are all private sector anyway, so we should level the playing field—just in the case there was the intent of having the opposite approach. Thank you, Chair.

Le Président (M. Shafiq Qaadri): Merci beaucoup, monsieur Paradis, pour vos remarques introductives. Maintenant, je passe la parole au gouvernement. Madame Sandals.

Mrs. Liz Sandals: Yes, thank you very much. If I understand you correctly, you're advocating that there should be more services allowed in the list of non-core services that can be contracted out. Is that correct?

Hon. Christian Paradis: This is correct. But I understand that this is a start. This is why, if the government says, "Okay, we'll go and we're going to test and gauge how it's going," I'd just make sure that we can allow the regulation to make sure that we can adjust, if we see some success. Because now, from what I see, most of the services that are prescribed would be investigative support services, but we do protective services. This is why I'm talking about interpreting "crime prevention" largely, because one of our good businesses that we're good at is to come in as support when we go securing large events, for instance.

Mrs. Liz Sandals: So this act that's proposed—the act that has been tabled, Bill 175—is actually more restrictive than the current act with respect to those services that can be contracted out. In that list of things that you would like to have contracted out, are some of those things you are already doing that you would no longer be able to do under this act? Is it actually restricting the services you can provide?

Hon. Christian Paradis: No. We are already doing things like—this is why I brought some more examples like traffic management and crime scene security and guarding, which are not allowed by the act, I think.

Mrs. Liz Sandals: Are you doing that now?

Hon. Christian Paradis: Not here in Ontario, but we are doing it in many other places. What we are advocating for is to say that it should be considered. This is the same position that I saw from the Association of Municipalities of Ontario. Of course, we are advocating that we can do more and that we can be more complementary in that regard, yes.

Mrs. Liz Sandals: So, in your opinion, this act is restrictive in terms of the list of things that it would allow you to do and it would prevent you from doing things in Ontario that you do in other jurisdictions.

Hon. Christian Paradis: I'm not saying that, because I see that we are talking about crime prevention, so that can be large, and I also see that the regulations can be made by the Lieutenant Governor according to section 200. This is why I'm saying that, as a first step, we could provide more duties that could be listed there, but if it's not the intent of going right away, for XYZ reason, regulations should be flexible.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. To the PC side: Mr. Yakubuski.

Mr. John Yakubuski: Thank you very much, Christian, for joining us today and for your submission. It's really confusing sometimes when you're hearing contradicting—I don't call it "testimony" because we're not here in a court law, but contradicting submissions. I look at one thing, and I have seen surveys to the effect that 80% of the population is opposed to privatization of policing—

Hon. Christian Paradis: And I am, too.
1450

Mr. John Yakubuski: And that is a little different than your survey. I recognize that, but it can be a little bit confusing for people who are trying to work their way through the maze. So you are not interested in taking over core police functions?

Hon. Christian Paradis: Not at all.

Mr. John Yakubuski: But there's not much definition in this bill, either, that actually clearly defines what those functions are. Would that be a fair statement as well?

Hon. Christian Paradis: Yes. I see some duties that are there, and it goes with the previous question. I understand that core duties will be defined, so this is what we're saying: We have to look at the programming, and it's not black and white. There can be coordinating by the police services, but after that, some executions of tasks can be fulfilled by the private sector. This is why, with what we're seeing, we say that as it is now, there are some duties that can be fulfilled.

But if it is the intent to go larger than that, no doubt we can do it, but never to the detriment of public safety, and never talking about privatization. This is not our business.

Mr. John Yakubuski: The other question I have, then, Christian, is that one thing about this bill is that it has huge changes in regard to the oversight of police, but for those who are non-sworn officers, there's no definition, no provision. How do we, as a society, ensure that there's oversight of those people, Garda or whoever,

private security—can I call it that? Where are the provisions for oversight, and how are we to be assured that we have the same kind of protection and oversight of those people providing that kind of security?

Hon. Christian Paradis: Yes, accountability and transparency are key, and this is why I cited the case of the Canadian Air Transport Security Authority. We also do the same thing with the Canadian Border Services Agency, when we do detainee transportation and guarding. Contracts are there, very strict, with strong KPIs—

Mr. John Yakubuski: With strong what?

Hon. Christian Paradis: Strong key performance indicators.

Mr. John Yakubuski: Oh, KPIs. Okay.

Hon. Christian Paradis: And believe me, if we're not compliant, that's very strict—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakubuski. I pass it now to the NDP: Mr. Natyshak.

M. Taras Natyshak: Merci, monsieur Paradis, pour votre présence ici. Ça va être vite; on a seulement trois minutes.

L'hon. Christian Paradis: D'accord.

Mr. Taras Natyshak: How much does an armed guard with Garda security make on average, per hour or annual?

Hon. Christian Paradis: It depends where you are. It's \$17 in Quebec. It might be \$14 or \$15 in Ontario. It depends on the laws and markets.

Mr. Taras Natyshak: What is GardaWorld's current credit rating, either by Moody's or any credit rating agency? Are you familiar or aware?

Hon. Christian Paradis: No, I'm not very familiar on that.

Mr. Taras Natyshak: The latest I could find from Moody's, from April 2007, was that your credit rating was downgraded from B2 to B3 and a probability of default from B2-PD to B3-PD, which puts it in the middle of the road—certainly not AA or AAA, as we would hope any of our private enterprises would be.

Do you know the current credit rating of the province of Ontario?

Hon. Christian Paradis: If your question is about credit rating, I'm here to say that we've been in business for 20 years. We have 65,000 employees, and this is part of our business to—

Mr. Taras Natyshak: Do you know the credit rating of the province of Ontario?

Hon. Christian Paradis: No, I'm not—

Mr. Taras Natyshak: It's AA, which is not bad, which means they will be able to pay the bills, and they'll certainly be able to afford—

Hon. Christian Paradis: We're able to pay the bills, I guarantee you. We always pay our bills. We are one of the largest—

Mr. Taras Natyshak: There's a hesitation. What I'm getting at, Mr. Paradis, is that we have to be assured, because policing our communities is our paramount job

in this place, to ensure the safety and security of our constituents.

Hon. Christian Paradis: I agree.

Mr. Taras Natyshak: We have to make sure that those men and women who do that job for us are being remunerated for that, and my goodness, the province of Ontario will always be able to ensure that those people are paid. That's what I'm getting at.

Hon. Christian Paradis: I totally agree with you.

Mr. Taras Natyshak: Does GardaWorld's business model, as you see it under these new opportunities under this bill—if those GardaWorld employees were to take up some tasks that are not core duties, but were under the scrutiny of the Police Services Act and under the scrutiny and accountability regimes and parameters that current real cops are under, do you think that would change your business model? Would it change the viability of your business model? Would you still be able to make money under that model that current police officers have to operate under?

Hon. Christian Paradis: I cite the Canadian Air Transport Security Authority because this is exactly it: The wages per hour are not the same, the training is not the same, and yes, it's still viable. We are dealing with national security information. Believe me, it goes well so far. It's a win-win partnership. That's a great example. So of course we can replicate it. This is our core business.

Mr. Taras Natyshak: Thank you. You cited an example of securing a crime scene. Do you think that that person should be an armed person?

Hon. Christian Paradis: Never. I'm talking about back-up. For instance, if you are on a crime scene—

Le Président (M. Shafiq Qaadri): Merci, monsieur Natyshak, et merci à vous aussi, monsieur Paradis, pour votre députation et pour votre présence.

AFFECTED FAMILIES OF POLICE HOMICIDE, ONTARIO

The Chair (Mr. Shafiq Qaadri): I call now our next presenter to please come forward: Ms. Greenwood-Graham of Affected Families of Police Homicide, Ontario. Are you present? Oh yes, you are. Please come forward.

Ms. Karyn Greenwood-Graham: The same chair?

The Chair (Mr. Shafiq Qaadri): Any chair you would like. Please be seated. You've seen the drill. You have five minutes to make your opening remarks. Please begin now.

Ms. Karyn Greenwood-Graham: Thank you for the opportunity.

In November 2007, my son Trevor was shot and killed by Waterloo police. The next morning, I had two people come to me to tell me that my son had died. I was given a card for the affected persons coordinator at the Special Investigations Unit, and they left. I was devastated, very angry, confused, in denial; I punched holes in walls—that much I do remember.

I started connecting with other affected families in any way I knew—I would attend funerals, whatever—to be a peer support for them and to create an advocacy group that was well needed.

The only way I know to explain to others what it's like—it's like having your leg amputated and having no help: no home supports, no physiotherapy, no follow-up calls, no visits, no crutches and no coping counselling—nothing. We get nothing. You and each of your family members learn to live with the amputation every day after that loss. There are families like me who had to give up good jobs. They were no longer able to function with all this anger and grief. We are mentally and financially crippled, and some are living on social assistance like myself. I have been for 10 years now. This cost alone should warrant putting good trauma supports in place.

Many of us have seen the videos of our loved ones killed just before the coroner's court, which is long after we need to see it. We see it on social media and we see it on the media, just like Sahar Bahadi, Sammy Yatim's mother. She's part of our group. It has a devastating effect. It's a very cruel and inhumane way to deal with someone who has lost a loved one to a trusted, state-sanctioned policy of shoot to kill.

We see these images daily in our minds. It is well recognized that a traumatizing event can paralyze a first responder, but what about the families? What about the families or someone who loves this person who was shot and killed, and have no answers? We have nobody to help us.

Over the years, I have worked with the citizen advisory committee for federal corrections. I'm a member of Parents for Children's Mental Health and I'm an original member of the lived experience and family members expert panel at CAMH. At CAMH, we consult with doctors, researchers, the Ministry of Health and Long-Term Care, the Canadian Mental Health Association and community groups. I went back to college at age 54 to learn more. I became a social service worker. I wanted to know more about the psychology of how I could support others.

Feeling alone, I started contacting other families who had lost loved ones, and we are Affected Families of Police Homicide. We have met and consulted with policy-makers over in eight years, primarily the Ombudsman a number of times, the SIU, the Ministry of the Attorney General—I've met with Yasir Naqvi personally; I've met with Marie-France Lalonde, the Minister of Community Safety and Correctional Services; I've met with their team as well.

I've met with the Ontario coroners, a number of them, in particular Dr. David Eden. Justice Michael Tulloch: When he did the police oversight review, I was the first one to get an email from him, because it was well known in government circles that we do have solutions that we can bring to the table.

1500

Justice Tulloch really listened and asked important questions of all the families present—

The Chair (Mr. Shafiq Qadri): One minute.

Ms. Karyn Greenwood-Graham: —which was reflected in chapter 4 of his report to the Ontario government. We were in a private meeting with Justice Tulloch just yesterday.

I also heard Kathleen Wynne say, “All Ontarians deserve trauma supports.” That was when my light went on and I thought, “I have to present to this committee.”

Based on research and knowledge, we want to see Justice Tulloch’s recommendations for support to us brought forward. We want you look at it, and we want you to actually—I would like to be involved in that at the table, because there are certain ways it can be done easily and not so hard, and it can be streamlined.

The other thing I’d like to see is a whistle-blower program for policing. I would really like to see that.

Having consulted with many police in the province—ex-police—when you look at all sides of it, we all suffer in this. I want to see trauma supports for police as I do for our families. This is a very positive way to keep Ontarians safe. This is part of the—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Greenwood-Graham. We now pass it to the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much. I was so involved in your story. First of all, I’m very saddened. I thank you and admire you for your strength in what you have been able to go on with, to try and help with yourself, with families and with police officers in a very holistic approach. I appreciate the fact that you’ve done that.

For some recommendations—I don’t know if you’ve read the bill in depth. Is there some way, within this bill, that we can expand on what you have done in your work?

Ms. Karyn Greenwood-Graham: I don’t know. That’s a question that perhaps I would put back to you: Is there? I haven’t read the bill back to front—

Ms. Laurie Scott: It’s a lot. Don’t worry. But in general—

Ms. Karyn Greenwood-Graham: It’s a lot; I have it at home. But I have spoken with Justice Tulloch personally, and we’ve talked about the things that I want to see in that.

Since I formed this group and organized, we’ve been advocating for changes in policing and oversight and coroners’ inquests. I just want to be part of the change that’s good for everybody. That’s all I’m here for. I want to see everything happening that should be done.

Trauma supports are one big thing. That’s what I started this group for; that’s what I’m doing here today.

Ms. Laurie Scott: I could only imagine how you felt that morning. If I can pull on my nursing from 20 years that I did, it sounds like, right then—and we always learn from past behaviours—there should have been a group of people who were at that doorstep with you or who were immediately activated to come in. I couldn’t imagine—who knows what family supports different people have? Some don’t have any; some have some. But that real counselling from people who have been trained in trauma

counselling—I apologize that that did not happen. I think we all do.

Ms. Karyn Greenwood-Graham: It’s not your fault.

Ms. Laurie Scott: I know it’s not my fault personally, but just in general. I don’t think anybody, looking back, wanted you to go through that alone. There should have been more supports.

Ms. Karyn Greenwood-Graham: It shattered our family. My son, my second son, is now in trauma because of it.

Ms. Laurie Scott: Yes. We have to do better.

Ms. Karyn Greenwood-Graham: We do.

Ms. Laurie Scott: It ties in to what I think we’ve all been talking about, which is more supports for trauma, for the mental health situations that occur, and how things can be so much more improved in our society.

Police officers themselves—now the calls are up. One in six are now calls dealing with mental health, as opposed to one in 20.

I know we only have a few minutes, but I wanted to thank you for your courage and what you’ve done and all your work, and continue advocating.

Ms. Karyn Greenwood-Graham: Thank you very much.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Scott. To the NDP: Mr. Natyshak.

Mr. Taras Natyshak: Thank you very much, Ms. Greenwood-Graham. My condolences. I cannot imagine, and never want to have to—

Ms. Karyn Greenwood-Graham: He was married. When he died, my grandchildren died.

Mr. Taras Natyshak: Thank you for your strength, and for being here today and continuing on what I believe is honouring your son’s memory and legacy, and the work that any great mom would endeavour to do if they had the strength that you obviously have.

Ms. Karyn Greenwood-Graham: Thank you.

Mr. Taras Natyshak: Not knowing the circumstances around your son’s death, I just generally would pose the question to you: We see an explosion of interactions between the police and people who have mental health needs, who have drug and addiction needs, who are poor. Simply because they’re poor, it puts them in interaction with police forces.

Ms. Karyn Greenwood-Graham: That’s exactly what trauma does to us.

Mr. Taras Natyshak: I’ve listened, and I’ve heard that post-incident trauma support is important, and I would agree. But on a proactive level, would enhanced investments in mental health supports, addiction counselling and crisis intervention supports—do you think that would play a role in lessening the incidents of police violence in interactions with civilians?

Ms. Karyn Greenwood-Graham: I think a complete overhaul of the education of police would be in order to do that. We have a lot of things we would like to see happen. I’m concentrating on this one thing today only because it was my original goal and it’s still my goal. There are many things that we’ve met with ministers

about. As I said to Justice Tulloch, “Why are we doing this again? They didn’t implement everything that was in your report. They hand-picked.”

Mr. Taras Natyshak: So what are the specifics out of the Tulloch report, the glaring omissions that you could point to for us?

Ms. Karyn Greenwood-Graham: Well, at 4.65 in chapter 4, it does explain that we deserve supports, and it does say in there that he feels that the SIU should have the funding to have a coordinator, a bigger amount of resources, to support affected families.

I have talked and worked along with Nickie Buchok, who is the affected-persons coordinator at the SIU. I’ve brought solutions to the table. But a lot of people’s hands are tied because, number one, they don’t have the funding, nor is there the political will. That is what we need to see, the political will.

Mr. Taras Natyshak: In terms of funding, is there a number associated with the added resources that you can point to?

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much, Ms. Greenwood-Graham, for being here today and for your continued advocacy work. I know it continues to be painful to talk about this topic, but I wanted to say thank you for your advocacy work because now not only do we get your written submission, but we’re here seeing the face of the family, which is very important.

What I’m hearing today in your presentation and your written submission is that you’re focusing on ongoing victim support. Am I correct to say that?

Ms. Karyn Greenwood-Graham: Yes. You could use the terminology “victim,” but I think “affected families” probably sits with the public and a lot of people involved as to who we are.

Ms. Soo Wong: The other piece here is, as you probably know through your conversation and your meeting with Minister Naqvi and Minister Lalonde, that the government provided support for the first time this past summer dealing with the coroner’s inquest. I know that we have been dealing with the jurors as well, recently—the support, which is really important, the PTSD.

Ms. Karyn Greenwood-Graham: Vicarious trauma, yes.

Ms. Soo Wong: Exactly.

I’m also hearing your comments that we need more expanded services and support, because these kinds of trauma are quite long-lasting: not just one year, two years, that kind of thing. I’m hearing it could be, as in your case, over 10 years—it has been over 10 years since your son was killed.

Ms. Karyn Greenwood-Graham: I’m still in treatment for post-traumatic stress disorder.

Ms. Soo Wong: Is there anything else you can suggest that we could do better in this proposed legislation in terms of supporting families, besides the dollars and cents?

Ms. Karyn Greenwood-Graham: Well, Justice Tulloch has recommended that—and I’m wondering where exactly it is. I think it was 4.9 or 4.6. There are many recommendations in the fourth chapter about supporting the affected persons, and he uses that term.

“Affected persons support staff should make initial contact with affected persons who are not witnesses. They should maintain ongoing, proactive communication with all affected persons throughout an investigation.”

But beyond that, there should be trauma supports. I mean, that’s right in his report. He’s so right. He listened, and I think that was wonderful.

Ms. Soo Wong: Thank you very much again for being here and for your written submission. We really appreciate it.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Greenwood-Graham, for your deputation and presence.

Ms. Karyn Greenwood-Graham: Thank you.

CANADIAN MENTAL HEALTH ASSOCIATION, ONTARIO DIVISION

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward: Ms. Quenneville and Mr. Szamuhel of the Canadian Mental Health Association, Ontario division.

Welcome. Please be seated. Your five minutes for opening remarks begin now.

1510

Ms. Camille Quenneville: Thank you, Mr. Chair. Like all of you, I’d like to commend the previous speaker on her presentation.

My name is Camille Quenneville. I’m the CEO of the Canadian Mental Health Association, Ontario Division. I’m happy to be here with my colleague Joseph Szamuhel, who is our acting director of public policy.

CMHA has 30 branches across Ontario. Our 3,900 staff provide front-line mental health and addictions services to tens of thousands of Ontarians. We would like to thank and commend Minister Naqvi and Minister Lalonde for introducing the Safer Ontario Act and seeking to implement many of the recommendations of Justice Michael Tulloch’s Independent Police Oversight Review. CMHA Ontario supports the province’s intention in this legislation to modernize and transform policing in Ontario, and we appreciated the chance to offer our feedback during its development.

Our stakeholders will all benefit from a shift to a more collaborative approach to community safety and well-being planning, the enhancement of police accountability and the strengthening of the police oversight system. As a measure of increased transparency, we’re pleased that this legislation will make certain documents related to policing oversight proceedings public.

Our main concern, however, is with respect to the collection, retention and disclosure of personal health care information, especially mental health and addictions-related information.

Our organization, CMHA Ontario, has been working to address issues related to mental health police records for a decade, and we were really pleased to work closely with Minister Naqvi on the Police Record Checks Reform Act in 2015. We strongly recommend that this legislation strictly align with the guidelines established by that act. It restricts the disclosure of mental health and addictions-related information, including contact with police or a hospital during a mental health crisis situation.

Mental health information is helpful for police to use internally to immediately assist a person experiencing a mental health crisis, but the disclosure of such information for other purposes can create barriers for people who are already vulnerable and can increase mental health stigma. If the disclosure of such information is pertinent in a particular case, then it should only be made public with the explicit consent of the individual, or their next of kin if they are unable to do so.

The Safer Ontario Act grants the Special Investigations Unit director the power to investigate incidents involving police that result in a serious injury. CMHA Ontario strongly believes that the definition of such a serious injury be expanded to include psychological injuries such as post-traumatic stress disorder or PTSD that may be incurred from interactions with police.

PTSD is a psychological injury that can develop after an individual is exposed to a particularly stressful or traumatic event. CMHA Ontario understands the serious impact that PTSD can have on an individual's health and well-being. We heard that from the previous speaker.

We have been working for some time on destigmatizing PTSD and promoting recovery, especially with our partners in the first responders community. If we hope to treat our mental health like our physical health, then acknowledging the severity of psychological injuries that may result from interactions with police is necessary.

The Safer Ontario Act also grants the SIU director the power to investigate incidents involving police wherein a police officer discharges a firearm. We strongly recommend that incidents where a conducted energy weapon or taser is discharged at a person also be automatically investigated by the SIU.

Issues relating to the use of conducted energy weapons, or CEWs, by police officers have been significant to CMHA Ontario. The safety of CEWs, especially with respect to their use on vulnerable populations, is not clearly understood by the medical and mental health and addictions communities. CEWs should only be used by police as an alternative to deadly force and as a last resort following the unsuccessful use of all other de-escalation techniques. Given the serious effects that the discharge of a CEW can have on a person, it must be accorded the same accountability as a firearm in this legislation.

I'd like to end my remarks by thanking you all for your interest in reforming policing in Ontario. If Ontario seeks to move to a more effective, sustainable and community-based model of policing, organizations like ours, who serve to speak for vulnerable Ontarians, have a

valuable role to play in achieving that vision. I would be happy to be a part of it and to take your questions today.

The Chair (Mr. Shafiq Qadri): Thank you. We'll begin with the NDP: Mr. Natyshak.

Mr. Taras Natyshak: Thank you very much, Ms. Quenneville, for being here. Thanks for your submission.

Do you believe that the Canadian Mental Health Association was adequately consulted throughout the crafting of this legislation?

Ms. Camille Quenneville: To be quite honest, I felt that we were. I felt we were accessible. We're not shy; we're very quick to offer an opinion.

Mr. Taras Natyshak: And in being accessible, were you accessed by the government?

Ms. Camille Quenneville: We were.

Mr. Taras Natyshak: How many times did they talk to you? And why did they miss some of the points that you've raised, like conducted energy weapons and the need to include them in PTSD support?

Ms. Camille Quenneville: Just to answer your initial question, yes, I feel we were adequately consulted.

With respect to conducted energy weapons—and I'll encourage my colleague to respond as well—from my perspective, I think that there is a whole lot that is unknown still about conducted energy weapons. It's unknown by the policing community, and it's unknown by folks who work in my field.

You and I have both heard of and seen incidents where people are seriously harmed, or in fact have died, as a result of the use of those weapons. So our advice, as I indicated, was to ensure that there is a way of determining when they're used and to what impact. They should only be used to de-escalate a situation. There are lots of steps to get to a point before somebody should even take out a conducted energy weapon.

Mr. Taras Natyshak: In the use-of-force model, is that what the intended purpose or use is stated to be for a conducted energy weapon: to de-escalate? Is that within the protocol?

Mr. Joseph Szamuhel: There is certainly a spectrum of training that comes along with use-of-force training in de-escalation. Robust training suggests that the use of a conducted energy weapon is at the end of, and the exhaustion of, all other techniques.

The Chair (Mr. Shafiq Qadri): Mr. Szamuhel, you just need to introduce yourself, if you please.

Mr. Joseph Szamuhel: Sorry. I'm Joseph Szamuhel. I'm the public policy team lead at CMHA, Ontario.

What we try and stress is, again, that this is a very serious weapon, and it should be used with a great deal of education and accountability.

Mr. Taras Natyshak: In general, are investments, as a province, in mental health supports in our communities—do you think the lack of support contributes to a higher incidence of interactions between police and civilians?

Ms. Camille Quenneville: I'm not sure how we would make that direct link. But I don't think there is

enough support for mental health and addictions across Ontario.

Mr. Taras Natyshak: So you haven't studied any correlation between decreasing amounts, or flatlined amounts, of supports and higher levels of interactions with—

Ms. Camille Quenneville: That's the link I'm—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak.

To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation and your participation and ongoing discussions with both Minister Naqvi and Minister Lalonde in dealing with Bill 175.

I just want to go back to your comments earlier dealing with Justice Tulloch's report and the recommendations. Can you share with the committee, when it comes to dealing with this particular bill, Bill 175, in terms of the value of public reporting—there have been a lot of concerns raised about a lack of transparency, and public confidence and the issue of trust, which is critically important, when we pass this bill. Can you share with the committee in terms of how you see the value of public reporting and the communication with agencies like yours and the general public? Because some concerns have been raised to this committee from various witnesses about that piece. Can you share with the committee on that part?

Ms. Camille Quenneville: We supported the notion of public reporting. I think where we want to be very careful is in how personal health information for anybody who has a mental health issue or addiction—how any of that information could potentially become public. We've seen time and again where people have an inability to find employment as a result of that. We want to be very careful about the stigma that is associated with that. So we have supported it, with the exception that we want to be very careful about what that process looks like.

We respect that for policing, it's very helpful to know and understand, if a police officer is going into a situation where somebody is in a mental health crisis, if they have had a previous attempt of suicide or if there is a history. That can be done without that information ever being public. That's what we have requested.

Ms. Soo Wong: There have been some witnesses before this committee who asked the government to delay the implementation, as well as the passage, of Bill 175. What does your agency say about that delay being suggested or requested by different agencies? Do you want the government to go forward with Bill 175?

Ms. Camille Quenneville: I think my remarks indicate that we are highly supportive of much of it. I think we also raised some very specific concerns. I would really be delighted if they were addressed. I'm not sure I'm in a place to determine what the legislative calendar is.

1520

Ms. Soo Wong: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. To the PC side: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Camille, for joining us this afternoon. I appreciate the work that you do. Mental health is something that I feel very strongly about. Two of my brothers committed suicide and I certainly understand the effect that mental health issues have on our society, so I appreciate your coming in.

On the policing side of it—Mr. Natyshak touched on it, maybe the need—not maybe—the absolute need for more investments in mental health services. My understanding is that one in six policing calls involves a mental health issue. Years ago it was one in 20. We clearly have a much greater problem today. I certainly understand and respect that when we're dealing with people, the police have to certainly be bound by stringent rules, as well.

I don't want it to appear that every person who deals with the police is somehow dealt with improperly. Would you agree that the vast majority of them, including those with mental health issues, are dealt with quite professionally by the police?

Ms. Camille Quenneville: First, I want to say, Mr. Yakabuski, I was unaware of your personal story and I'm terribly sorry.

I would just say that without question I have faith in policing—without question. That is an extremely difficult job and it's done well across Ontario every single day in circumstances that none of us are aware of. So, yes; the short answer is yes.

I can tell you that the policing community has also been very good to my organization. I have a chief of police on my board. Their concern about these issues has certainly risen as a result of the issue you raise, which is, what does their everyday look like? It's very often coming into contact with people who are struggling with their mental health. I think we're really all trying to find a way forward as a result of that.

To answer your question, yes, we have great faith in policing. I think, really, it's an issue of saying—I wouldn't be doing my job if I didn't come to you and say: Let's be very responsible in how we're using things like conducted energy weapons because there are de-escalation techniques.

Mr. John Yakabuski: Absolutely, and there has to be a process by which we are able to oversee the conduct of people in any profession, and police cannot be exempted from that.

Ms. Camille Quenneville: Yes. I think that's fair.

Mr. John Yakabuski: I appreciate that and I appreciate your submission today. Thank you very much.

Ms. Camille Quenneville: I appreciate your question and your comment.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Quenneville and Mr. Szamuhel, for your deputation on behalf of the Canadian Mental Health Association.

Ms. Camille Quenneville: Thank you, Mr. Chair.

MR. ELIE LABAKY

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Professor

Abdillahi. Is Professor Abdillahi present? If not, is Mr. Elie Labaky? Great. You have the floor. Please be seated, and thanks for coming earlier. You're welcome to begin now.

Mr. Elie Labaky: Thank you for having me here today. I'm legal counsel and I represent the interests of police officers in the province of Ontario in matters stemming from the Police Services Act. I work with the PSA regularly, and I'm also completing a doctorate in law focusing specifically on the PSA.

I feel very strongly about this proposed bill and have travelled from Ottawa to be here today.

From the outset, I'd like to advise you that my position is in support and in agreement with those of Mr. Bruce Chapman, Mr. Rob Jamieson and Mr. Peter Brauti, and in support of the oversight legislation. I will consequently not address it. But my alarm and concern mirror those that Mr. Peter Brauti, counsel for the Toronto Police Association, brought to your attention last week.

There need to be substantial changes to the PSA. I support change, but not this bill in its entirety, certainly not at the expense of officers. It's the province's duty to ensure that our officers are afforded the necessary tools to appropriately serve and protect the citizens of Ontario.

Outside oversight: It's clear that this bill was brought forth with haste and lack of knowledge as to the fundamental principles of policing. The act works in congruence with other parts. We cannot simply address one part and not the others.

I need to bring to your attention an important distinction that must be made. Justice Tulloch authored the report of the Independent Police Oversight Review, and that's exactly what this report is: a review of independent police oversight, not a comprehensive review of the Police Services Act, and it should not be treated as such.

Should it be passed unaltered, this bill will have a detrimental impact on our policing. I will bring four issues to your attention.

(1) The privatization of policing: I don't support it. We've recently seen the impact of hiring private security to replace police in Maniwaki. The public suffers. Frankly, the citizens of this province deserve better. I believe Mr. Chapman made that clear in his submissions last week; I can address that in questioning.

(2) The inspector general: It's not a new concept. It's clearly outlined in subsection 3(2)(e) of the current PSA, and has been since its inception in 1990. The problem with this section is that it outlines several duties that the minister shall do. The word "shall" ought to be changed to the word "must." "Shall" simply means "you have a duty to." It denotes a future intention do something, as opposed to an absolute obligation. The word "must" provides the safest, most definitive drafting route to capturing the intended absolute obligation for the province to exercise its duty. I can expand further during questioning.

The province has never enacted regulations or made efforts to inspect police services in holding them accountable to provincial standards falling directly under

its jurisdiction for the past 28 years. We don't even have a provincial police standard after the Ontario Police College. The manner by which the legislation is drafted between sections 87 and 98 suggests that investigators are arbitrarily selected and could be currently serving police officers seconded to the office. These criteria should be addressed directly in the act and not in the regulations.

(3) Section 95 suggests that if the inspector general is notified that a chief, deputy chief or board member has committed a criminal offence, "The inspector general shall refer the matter to the chief of an unrelated police service." We are faced with the executive officers investigating each other and two-tiered systems of discipline. Front-line officers are subject to rigorous independent impartial oversight, whereas top-ranking executives are investigated by other top-ranking executives.

I am alarmed by this section and so many others. We're sending the message that front-line officers will be treated differently than top-ranking officials.

(4) Lowering the standard of proof to a balance of probabilities is a big mistake. Police officers ought to be held to a high standard, yes, but lowering the standard of proof will not hold them more accountable. It will hurt the public. Knowing that a member of the public must only prove that the officer erred on a standard of 51% will only cause officers to be more hyper-vigilant and subsequently reduce how they exercise discretion on the front line.

The parameters placed on police discretion of authority can mean the difference between someone getting a second chance or having a criminal record haunt them for the rest of their lives. Doctoral researcher and former police sergeant Greg Brown recently released a study showing that officers are, in fact, "de-policing," or avoiding proactive policing, out of fear of being scrutinized by the public.

No other profession is scrutinized as highly as policing and no other profession holds the risks and dangers policing does. Lowering the standard of proof is going to effectively turn our officers into ticket-issuing robots who only respond to low-risk calls, for risk of reprisal. As a doctoral researcher on this topic, I am very concerned by the impact this will have on our front-line officers.

This legislation proposes a safer Ontario, but my question to you is: safer for who? It seems the province has shifted its approach from being tough on crime to being tough on police. We need to take a step back and clearly examine the damage this will have on our police, our people and our province.

Police officers must make a split-second decision that lawyers and judges must spend years arguing. This bill should consequently afford them a higher degree of deference.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Labaky. We begin with the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation. Are you submitting anything in writing to the committee?

Mr. Elie Labaky: No.

Ms. Soo Wong: You're not. Okay. I just wanted to check about that.

I know in your presentation—I don't recall hearing it, so I just want to get some clarification on your views on the independent tribunal. Can you share with us about that particular tribunal being considered for this proposed legislation, and what are your views on this tribunal and how it's actually going to affect your clients?

Mr. Elie Labaky: Again, that falls under the oversight regime, and my views support those of Rob Jamieson, Mr. Bruce Chapman, and Mr. Peter Brauti of the Toronto Police Association. I won't address oversight because I believe that oversight has been overly addressed in part of this bill. Oversight is part of the bill, not the entire bill. There are other very important sections. Because we've opened this legislation and we're open to discussing it, we need to address other sections. There are other sections, and if you don't address them and you focus only on oversight, it's not going to work.

Legislation is like a living organism. It has moving parts. You can't—

Ms. Soo Wong: Okay. I don't have a lot of time. I'm going to have to ask you some questions.

Mr. Elie Labaky: Okay, sure.

Ms. Soo Wong: Previous witnesses asked about the whole issue of not just oversight, but also the issue of governance. Can you share with the committee, with regard to Bill 175, in terms of improving the governance issue with the police services boards?

Mr. Elie Labaky: Again, that falls under oversight. I have no issue with governance in the way it's running right now. There have been some issues that board members have to appear before bargaining committees. That's something that perhaps you should address. But again, I don't want to address any oversight issues because there is so much more to the Police Services Act than oversight and just simply one part.

1530

Ms. Soo Wong: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. We'll go to the PC side: Mr. Yakabuski.

Mr. John Yakabuski: Thank you, Elie, for joining us today. You've raised some concerns that have been raised previously. You touched on one, and that is the requirement for split-second decisions that police have to make on many occasions, and with some of the changes with regard to the balance of probabilities versus—

Mr. Elie Labaky: Clear and convincing evidence.

Mr. John Yakabuski: —clear and convincing evidence, which used to be the bar that was required under complains under the police act, that a police officer may just notice that they happened to look the other way rather than getting involved in something that is not major, because they're concerned about what might happen if they actually get involved with that situation on the street. That's not going to make our streets safer. That, in fact, is going to make them less safe.

I know that police associations have pleaded with the government to restore the clear and convincing level of proof as a requirement. Is there any sense that the government is listening, or is this really going to be a bill about oversight on the police as opposed to making our streets safer, which involves oversight on the police but it has to be more far-reaching than that?

Mr. Elie Labaky: That's exactly why I refuse to address the oversight section. It has been reviewed, but there is so much more to discuss.

With respect to the point you bring up with the standard of proof, police officers are professionals, but their duties are different and their responsibilities are different. Accountants don't have numbers lunging at them with knives. Engineers don't have algorithms attempting to rob them or assault people. Police officers, as state agents, should be afforded a higher degree of deference in dealing with these types of situations.

This legislation is making it so easy to complain about police. I'm all about oversight; don't get me wrong. I support oversight to a certain degree. But we're putting so much pressure on these officers and we're just facilitating the complaint process and the oversight process so much so that you're stripping away the discretion of the officers in that, anything they do, you just have to prove on a balance of probabilities that it probably happened.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. To the NDP side: Mr. Natyshak.

Mr. John Yakabuski: Thank you very much.

Mr. Taras Natyshak: Thank you, Mr. Labaky. You referenced the privatization of community policing and your concerns around it. Mr. Paradis from GardaWorld talked about how he doesn't want to take over any core duties of policing. Do you believe that to be the case?

Mr. Elie Labaky: I don't support privatization of any policing—

Mr. Taras Natyshak: Do you believe GardaWorld's submission and interest in this bill relegates them to just basic policing duties, or do you think that they would probably jump at the opportunity to perform core policing duties if the legislation allowed it?

Mr. Elie Labaky: I can't speak to what they meant by their submission.

Mr. Taras Natyshak: Do you believe that the component that opens up the door to privatization of policing services—

Mr. Elie Labaky: Of course; of course.

Mr. Taras Natyshak: Hold on; I'm not done my question. Do you believe that component is wide open and isn't prescriptive in terms of relegating it to minor duties?

Mr. Elie Labaky: Yes. Yes.

Mr. Taras Natyshak: Explain that to us.

Mr. Elie Labaky: Anybody can jump in.

Mr. Taras Natyshak: And do what?

Mr. Elie Labaky: And get involved in—it's not about core policing duties or general policing duties. Policing is policing. Having a police officer at a festival is just as important as having a police officer respond to calls front

line. Police officers at festivals—the communities are usually apprehensive. I can speak about my community. The community is very apprehensive about having the officers there, but by the end of the festival, you'll find the kids have more focus on the officers and wearing their hats and smiling and taking pictures with the officers than actually playing the games. That's what policing is—

Mr. Taras Natyshak: There's a community involvement component to it as well.

Mr. Elie Labaky: Yes, there's a huge community component to this.

We want police officers to just arrest people and just break up fights. You're making everyone nervous, because now it's scaring individuals from the police.

Mr. Taras Natyshak: There's a scenario that has been presented around guarding crime scenes. In my mind, I don't think that in any way any private security firm should be providing that service. It lends itself to a terrible CSI episode where that private security officer, who is making 15 bucks an hour, potentially is compromised because, hey, they need to get into that crime scene and alter the evidence there somehow; there are criminal elements that want to do that. That's a scenario that I can't contemplate actually being allowed in this province.

Mr. Elie Labaky: But even when you're guarding the crime scene, you're guarding it in the community. Community members will approach you and speak to you.

There was a crime scene in my neighbourhood, and every one of the neighbours developed a relationship with the officers—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak, and thanks to you, Mr. Labaky, for your presentation today.

NATIONAL WOMEN IN LAW ENFORCEMENT ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward. I believe it is round 2 for Ms. Donovan of the National Women in Law Enforcement Association.

Welcome. Please begin.

Ms. Kelly Donovan: Thank you. Good afternoon. My name is Kelly Donovan. The scheduled speaker, Angie Rivers, is a police constable with Waterloo Regional Police. Angie is a representative plaintiff in the current class-action lawsuit against the service, and she's a founding member of the National Women in Law Enforcement Association. Angie suffers from depression and PTSD resulting from her employment at WRPS and was not well enough to attend today. She has asked me to present on her behalf so this critical matter can be addressed.

Section 115, the section dealing with disabled officers, is of critical importance. Passed as is, police chiefs can demote and fire injured and disabled officers for no reason other than that they are disabled. When people

hear of this, the consistent reaction is that of shock and disbelief.

The fact is, under the current PSA, chiefs already have the power to fire an officer for disability under the current section 47. Under the current PSA, the chief must first hold a public hearing and consider the evidence of two qualified doctors before the officer is dismissed. In the proposed legislation, these requirements are removed. The chief will not be compelled to hold a hearing or hear the evidence of medical professionals; the officer can only request an arbitration after the fact. Will these arbitrators be well versed in the limitations of a first responder suffering from PTSD?

For an officer who suffers from mental health issues and who struggles to leave the house or place a phone call, responding to a notice that they are being terminated within 60 days and preparing a case for arbitration will be a prohibitive task.

Angie Rivers represents hundreds of officers who could be fired after this legislation is passed, and the catalyst of her PTSD is the way she was treated while working for the Waterloo Regional Police. Is it fair to continue to give the police service the power to terminate her employment?

Due to the culture of policing, officers are extremely hesitant to admit to and seek treatment for mental health issues. This legislation will undo the progress that has been made in destigmatizing mental health in first responders.

Recent events, such as the apology from Commissioner Bob Paulson following the settlement of the RCMP class-action lawsuit, prove that the culture within police services is what is keeping qualified female officers from applying to the profession or remaining in the profession.

In response to the \$167-million class action against the Waterloo Regional Police Service, the service's lawyer stated in a press release that affidavits filed by the plaintiffs contained "untrue, exaggerated, misleading and/or defamatory allegations." In Chief Bryan Larkin's sworn affidavit filed in December 2017, he called the allegations "unfounded" without any investigation. "Unfounded" is a police reporting classification meaning a crime never occurred and was not attempted.

An investigation by the Globe and Mail's Robyn Doolittle showed that between 2010 and 2014, the national "unfounded" average for all police services for sexual assaults reported was 19%. For Waterloo Regional Police, it was 27%.

In January 2018, Sara Casselman, who is the head of the Sexual Assault Support Centre in the region of Waterloo, helped write an open letter to Chief Larkin. She states, "The police's lawyer very strongly denied the allegations.... If there are survivors that are listening, how safe do they feel coming forward?"

Not only that, but how do female officers feel when they see that Sergeant McInnis from the Toronto Police Service was charged with Police Services Act charges after she filed her human rights complaint?

1540

There has to be an acceptance of what is wrong within our police services if things are ever going to improve. Empowering the people who are causing the toxicity that is prevalent in policing is an obvious move in the wrong direction. Until police officers can be protected under the Occupational Health and Safety Act, we cannot allow Bill 175 to pass and give more power to chiefs of police, who are currently in denial that any problems exist.

The Chair (Mr. Shafiq Qaadri): One minute.

Ms. Kelly Donovan: The bill will only serve to push more good people out of the profession.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Donovan. We begin with the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much for appearing here again this week in committee, and for filling in for Ms. Rivers. Please pass on that we hope she is feeling better.

Ms. Kelly Donovan: Will do. Thank you.

Ms. Laurie Scott: I want to highlight a couple of the things that you said. Maybe just give us a statistic—if you have it, in general terms—of how many women actually enter the police force and how many women actually leave, some type of reference so that the committee can understand.

Ms. Kelly Donovan: That would actually be a nice statistic if it was ordered to be produced by police services, because I know—

Ms. Laurie Scott: But from your knowledge.

Ms. Kelly Donovan: I was one of eight recruits when I was hired who were female. It's pretty typical that there are one or two females in a recruit class, which is below our 20% that we have now, so I think there are fewer women applying, and I do see a lot of women who are qualified leaving long before retirement. We need to start looking at why we are not keeping them—I have my own thoughts on that—but also why we cannot recruit them. Why are we not attracting them to the profession? It's what they see. It's what they hear. It's not an appealing profession, to be a woman and a minority in the service.

Ms. Laurie Scott: Okay. That's something we definitely need to look at.

Also, I want to talk about the fact that this legislation could give new powers to police chiefs. You have the example of Ms. Rivers, who suffers from PTSD, and that they will then have the powers to terminate them, which is—

Ms. Kelly Donovan: I think it's evident in Sergeant McInnis's case, where she came forward with a human rights complaint and she then faced a Police Services Act charge and had to surrender time through an informal process. Because the chiefs are afforded the ability to do an internal investigation through a chief's complaint, they can charge an officer criminally or through the PSA, and they can do so with no oversight.

In my case, I reported corruption. I faced eight Police Services Act charges under investigation. The women in the class action lawsuit have been threatened with Police

Services Act charges because they took photocopies of their notes, which are evidence in the civil litigation. They didn't do anything wrong, but they're being threatened with these charges. It's because of the power that is afforded to police chiefs.

Ms. Laurie Scott: Okay.

The Chair (Mr. Shafiq Qaadri): One minute.

Ms. Laurie Scott: Go ahead. Did you have anything?

Mr. John Yakabuski: Under the bill as it is written, am I correct in understanding that someone on the police force suffering from PTSD, disabled, could actually lose their job?

Ms. Kelly Donovan: The way it's written currently, there would be a hearing and there would have to be evidence from two medical professionals. Although having it in there, period, is a negative thing for police officers, at least under the current Police Services Act there is a formal hearing where the evidence of two doctors would be presented. That has been removed in the new bill.

Mr. John Yakabuski: So in the new bill, it would be much easier to dismiss that officer?

Ms. Kelly Donovan: Yes. It's on the opinion of the police chief and the board.

Mr. John Yakabuski: That's got to change.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. To Mr. Natyshak of the NDP.

Mr. Taras Natyshak: Under those same parameters, is it not conceivable that an officer could be terminated with the rationale of not being able to fulfill their duties because of pregnancy?

Ms. Kelly Donovan: Yes. I believe it's worded as "a medical disability," whether that's physical or mental.

Mr. Taras Natyshak: Do you think that should change?

Ms. Kelly Donovan: I think the ambiguity in this bill needs to change in several sections, but absolutely, for that section, yes, it does.

Mr. Taras Natyshak: How would that not be a human rights violation?

Ms. Kelly Donovan: It's carefully worded that it has to fall under the guise of the Human Rights Code, but I know there is already case law saying that occupational health and safety doesn't apply to police officers, because the PSA is given so much leverage in an employer-employee contract. It oversees how we're treated as employees.

Until the public start to realize how poorly we are treated as police officers—that's the cause of a lot of problems happening on the road. You have officers who won't admit that they're suffering from PTSD because they're afraid to lose their job. So what are they doing when they're faced with a stressful situation on the road? They're doing the best they can, but it's not good enough.

Mr. Taras Natyshak: So as a province, as a government, we extended PTSD-presumptive legislation to first responders, yet are prohibiting or disincentivizing from actually utilizing those services.

Ms. Kelly Donovan: Yes.

Mr. Taras Natyshak: How is that any measure of progress at all?

Ms. Kelly Donovan: Right. It's not.

Mr. Taras Natyshak: Any other thoughts that you want to add to your testimony and your submission here?

Ms. Kelly Donovan: Just for those who weren't here last week: I did present last week, and my presentation was all around how I came forward to report internal corruption and I faced an investigation myself. The chief targeted me. I was facing eight Police Services Act charges. I was constructively dismissed. I reached out to the Human Rights Tribunal and everywhere I could, and no one would help me. I eventually resigned, and now I'm on a campaign to try to make positive changes.

Mr. Taras Natyshak: Are you involved in a class action suit?

Ms. Kelly Donovan: No.

Mr. Taras Natyshak: Are you going to?

Ms. Kelly Donovan: I chose not to, so that I could actually speak about my experiences. Otherwise, I would be pinned under the PSA and I would be silenced. I chose to leave so that I could share my experiences to make a positive change.

Mr. Taras Natyshak: So your whistleblowing, as it were, was never followed up on at all and you were just quashed?

Ms. Kelly Donovan: No, it cost me my job.

Mr. Taras Natyshak: It cost you your job.

Ms. Kelly Donovan: The way that the bill is written now, that would happen to the next person who tries to do the right thing. They're going to be targeted and they're going to be made to look like a criminal. They have the power to do a lot of things behind closed doors, and I'm trying to expose that. I'm happy to be here again to share my experiences and have people listen. I think that it's a matter of time before more people start to listen and then things start to change.

Mr. Taras Natyshak: Thank you so much for being here.

Ms. Kelly Donovan: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much, Ms. Donovan, for being here again. Please pass on our sadness at hearing that Ms. Rivers is not here today to do her presentation.

Ms. Kelly Donovan: I will, thank you.

Ms. Soo Wong: Is there any possibility for you to share what you just read to us from Ms. Rivers so that we could have it for—

Ms. Kelly Donovan: Yes, it will be in the transcript. I'll be sending that in.

Ms. Soo Wong: Okay. Just to go back to your concerns and comments: I hear your concerns about the powers of the chief of police and that you want the government not to pass Bill 175. We have consistently heard from other witnesses who do want this bill to be passed.

I want to hear from you in terms of—because I don't think that you mentioned too much about the whole issue of training and requirements for the officers—the police services board, the training for the members of the police services board, the issue of oversight, and how that would help woman officers, because I heard your concerns, not just in this week's presentation, but in your presentation last week, about woman officers not just in the Waterloo region, but across Ontario.

Ms. Kelly Donovan: Well, a perfect example of that is my experience. I reported the corruption to my board initially because I wanted them to know what was happening at the service. They're the oversight body. Instead of listening to my concerns, they allowed the service to come after me punitively. I brought it to their attention that that was happening, and they did nothing to stop it.

After my 14-month constructive dismissal and after I resigned, I went back to the board, I sat at the table and I told them, "I'm starting my own business. I know the training that you need to obtain as board members. I'm working on a curriculum to train you so that you are up to date on your authorities so you can enforce your authorities." I haven't heard anything from them.

There is absolutely no desire to move in the right direction. It has always been status quo in policing. You can ask any police officer that. They're going to tell you that, for 30 years, it has been the status quo. You have a good idea for positive change, and no one wants to hear about it.

Ms. Soo Wong: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong, and thanks to you, Ms. Donovan, for your deputation and your presence.

Ms. Kelly Donovan: Thank you.

MR. ADE OLUMIDE

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ade Olumide. Welcome, Mr. Olumide.

Mr. Ade Olumide: Thank you.

The Chair (Mr. Shafiq Qaadri): Please be seated. You'll have five minutes, as you've seen, for your opening remarks. Please begin now.

Mr. Ade Olumide: First, I would like to thank you for giving me these five minutes to speak to the committee. I'll be brief. If I don't get to finish, it's a one-page presentation; you all have a copy of it, so we'll see how that goes.

Without citing the Charter, the Canadian Victims Bill of Rights and United Nations treaty rights to receive a reason for arrest and assault of anyone, any time that police powers of such are engaged—we know from recent events that a simple arrest and assault could easily escalate to death. This is what led to the Black Lives Matter movement.

From my point of view, if the Legislative Assembly fails to create a mandatory procedure for charging any courts that engage police arrest and assault powers

without filing a reasonable justification report, then the committee or the Legislature could one day have blood on its hands, because as I said, any time you engage police powers, it could easily escalate to death.

1550

The employment of a judge cannot be terminated without involving a judicial council. What I'm addressing here are powers that are within the control of the Ontario Attorney General and the police. For example, section 81 of the Police Services Act charges for inducing a police officer to commit a crime. That's within the power of the government without a judicial council. Also, the judge could be charged for section 265, assault; section 140, public mischief; section 423, intimidation; and section 346, extortion.

The current status quo is that the judicial council says—without a court proceeding. Based on what they've told me, if a judge commits murder, rape, kidnapping, without a court proceeding, it's covered by judicial immunity. That's completely unacceptable in 2018 in a country like Canada.

They have no rebuttal to the fact that the Parliament of Canada has exclusive jurisdiction over criminal law. There is nothing like Criminal Code immunity for any judge, for anyone, so you can't make it up; it doesn't exist. Parliament has not given anyone Criminal Code immunity, so if a judge commits a crime, they should be charged.

Ontario committed an unprovoked reprisal by lying about jurisdiction in order to defraud my charter right to raise a constitutional question. The two grounds—well, I raised more than one ground, but one of the two grounds I bring to your attention is that I said you cannot bring a section 140 application because there is no existing proceeding against Ontario.

The second thing I said was that Ontario has already admitted to committing a crime. When you commit a crime, just because the courts let you off or refuse to adjudicate the fact that you've committed a crime does not now give you the right to use my taxpayer dollars that I pay to you—

The Chair (Mr. Shafiq Qadri): One minute.

Mr. Ade Olumide: I don't know if you've had any chance to see the presentation I sent to the committee, but the bottom line is this: The majority of politicians in all three parties enter politics for the right reasons. Let me speak to those politicians who still remember why they came to this Legislature. In the end, I will succeed in changing police act section 138, and history will be very unkind to the Premier and any party leader who refuses my request. Please don't be offended, but let me be very clear: Anyone who is opposed to my request is unfit to sit in this Legislature.

Right now, as far as I'm concerned, the Ontario government, led by the Premier, is feeding the fear that black males are violent, and so a judge can arrest and assault a black male—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Olumide. We'll begin with the NDP: Mr. Natyshak.

Mr. Taras Natyshak: Mr. Olumide, thank you for your presentation. I'm not a lawyer. I'm not trained. You're throwing some Criminal Code stuff out there that I don't know by memory. So I'm going to afford you the opportunity to elaborate with the two and a half minutes we have left.

Put it in reference to the bill that we are currently analyzing. Tie it in to specific points here that I can understand. That would be very helpful, and I would appreciate it.

Mr. Ade Olumide: In my letter to the committee, what I complained about was section 138 of the police act, which says that if you're a security risk, a judge can ask a police person to arrest and assault you. Under the charter and under the Canadian Bill of Rights, any time you arrest or assault anyone, the person is entitled to have a reason. I have been arrested and assaulted. It has been almost a year, and I don't have a reason.

We've set up all these laws for the police and all of that, but the judges are excluded because they're saying, "Because we're judicially independent, we don't have to give you a reason." I'm saying that's incorrect, because the Attorney General also has a constitutional duty to enforce criminal law.

To take a step back: I was invited to the court for a meeting, okay? Another judge approaches me beside the entrance of the courts and stops me from entering that meeting. Now, I have a right to be in that meeting based on the Criminal Code and based on the Justices of the Peace Act. According to the law, I could actually have arrested the justice of the peace and the police person—a citizen's arrest—as section 35 of the Criminal Code says, when there's a crime in progress. What I was in court to do, invited to do, I had a right to do it. Taking away that right with the threat of injury is extortion. So I could have arrested them and then called the police and said, "They are committing a crime."

Setting that aside, the issue is this: Right now, judges have power to police, to arrest, without giving you a reason. In the act, it says that they have to comply with the charter and the Canadian Bill of Rights, but here is where I quibble: That's in the act right now, but I still don't have my reason for why I was arrested and assaulted. So it means nothing.

What I'm saying is this: If you engage powers of arrest and assault—it doesn't matter who it is—in a court, you must file a reasonable justification report with the Attorney General with the court. Then I can write to the Chief Justice or to the Attorney General of Ontario and say, "I want to receive the reason," and it would be an independent process. If you don't do that, then you should be charged.

Mr. Taras Natyshak: Would those changes not be more appropriate at the federal level within the charter rights?

Mr. Ade Olumide: Well, no, because the charter already says—and this is the funny thing: The charter already says—

Mr. Taras Natyshak: Or the Criminal Code, sections of the Criminal Code?

Mr. Ade Olumide: Well, the Criminal Code allows you to charge the justice of the peace, the judge or whoever, right now, as it is. The charter and the Canadian Bill of Rights—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much, sir, for your presentation and your written submission.

We're here today to deal with Bill 175, the Police Services Act, and the amendments being proposed as well. In your written submission, what I read is that there is an experience on the issue of racism. I'm going to call it the way it is, okay?

Mr. Ade Olumide: Yes.

Ms. Soo Wong: Have you spoken to the Attorney General's office about what you experienced here? Because right here, before our committee today, it's about Bill 175, so I'd like to focus on that particular bill. I will certainly share your written submission with the staff of the Attorney General. I just want you to know that piece.

Specifically dealing with Bill 175, sir, do you have any comments in terms of improved oversight, improved transparency of reporting and the whole issue of governance as it relates to police services boards? Can you share with us—because I saw your written submission about your experience in the judicial system, the courthouse and the racism you experienced. But in the short time that we have, can you share with the committee your views, your opinions dealing with Bill 175?

Mr. Ade Olumide: Permit me, if—Bill 175: I understand that's what the committee is here for. When I wrote to the committee, I wrote about the Police Services Act, section 138, and that is what gives the judge power to engage the police. If you look at it from your government's point of view, I have, right now, been arrested and assaulted by a police officer. I have asked the police for a reason why that arrest and assault happened, and I can't receive a reason. What the OIPRD has said is, "Go to the justices of the peace council," and the justices of the peace council has said, "We can't give you a reason because it's covered by judicial immunity."

If police power was not involved, then your committee would not have a say. But because it engages the use of police power, and you're looking here at a real-life example of someone who has a right to receive the reason—I have a charter right to receive the reason for arrest and assault. I have spent—it has been one year. I've written to the Premier; I've written to the Attorney General. Everyone who I should have written to, I have written to them. In fact, the Ontario government is the one preventing me from getting an answer.

That's why my wording was very strong, because right now I'm before the Ontario Human Rights Tribunal. What the government is arguing is that the Ontario Human Rights Tribunal should not hear the case. From where I sit right now, I can't get a reason from the police because they say, "We can't ask the judge why he arrested you." The justices of the peace council says,

"We can't ask the justice of the peace why he arrested you." Then all the other organizations, OIPRD, justices of the peace council—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. We now pass to the PC side: Mr. Yakabuski.

1600

Mr. John Yakabuski: Thank you very much for joining us today. Are you a lawyer?

Mr. Ade Olumide: No, I'm not.

Mr. John Yakabuski: And neither am I. I didn't say that with any degree of pride or anything. Just, by way of disclosure, I am not.

You're touching on so many issues here. First of all we, as a committee, have no power to refer what your concern or complaint is to another body. You've already said that the government has argued against the Human Rights Commission here in your complaint. Is that correct?

Mr. Ade Olumide: For the Human Rights Tribunal to hear—

Mr. John Yakabuski: Tribunal.

Mr. Ade Olumide: Yes. For them to hear my complaint, they would have to hear from the police and the judge to say, "Why did you arrest Mr. Olumide?" The Ontario government has said they should not call them, for judicial immunity or whatever case—

Mr. John Yakabuski: Were you charged when you were arrested?

Mr. Ade Olumide: No, I wasn't. But the point is that in terms of the role of your committee, we're talking about a legislative change. Right now, it just says, "If you're a security risk," right? The letter I have from the justices of the peace council says, "He identified you as a security risk," but they don't say why he identified me as a security risk. I know some people are afraid of black people, because he could have said, "You can't attend the meeting" and left it at that. But for some reason, he was afraid.

Mr. John Yakabuski: Who was afraid?

Mr. Ade Olumide: The justice of the peace. So my issue now is this: He has arrested and assaulted me and I don't have a reason—

Mr. John Yakabuski: The police officer?

Mr. Ade Olumide: Well, the police person and the judge. The judge told the police person to arrest me.

Mr. John Yakabuski: Who assaulted you?

Mr. Ade Olumide: The police officer.

Mr. John Yakabuski: Did you register a complaint?

Mr. Ade Olumide: Yes, absolutely.

Mr. John Yakabuski: Was it dealt with?

Mr. Ade Olumide: No, because they said, "The judge told us to do it so we have to do it." So then I said to them, "Well, if a judge tells you to commit murder, if a judge tells you to shoot me, would you shoot me?" I still don't have an answer today. That's why I'm saying that within the legislation—

Mr. John Yakabuski: Ms. Wong is right. You really need to take this and write or whatever to the Attorney

General. We, as a legislative committee, have no power to investigate these kinds of things at all.

Mr. Ade Olumide: But the issue here is the Police Services Act, section 138.

Mr. John Yakabuski: We're only here to talk about Bill 175. We can't reopen the police act.

Mr. Ade Olumide: I wrote to the committee about section 138 of the Police Services Act, about that power that gives a judge power to deem me a security risk without giving me a reason. That's what I wrote to the committee about. After that, I was invited to attend.

I'm just here to say that within section 138 of the Police Services Act—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski, and thanks to you, Mr. Olumide, for your deputation today.

ONTARIO HUMAN RIGHTS COMMISSION

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Ms. Mandhane and Mr. Horner of the Ontario Human Rights Commission. Welcome. Please be seated, and please begin now.

Ms. Renu Mandhane: My time is running already. Okay. On behalf of the Ontario Human Rights Commission, I am pleased to join you today to support Bill 175, the Safer Ontario Act. I'm here with my colleague Matthew Horner, who is counsel at the OHRC.

With this bill, the government is putting forward a modern vision of policing. Diverse stakeholders, including human rights groups, the Ombudsman, police chiefs and boards, and the Ontario Federation of Indigenous Friendship Centres have communicated their support for reforms to policing in Ontario. And while Ontario police associations have an important perspective on some of these workplace issues, oversight cannot be one of them.

Trust in police is essentially fractured amongst groups who are protected under Ontario's Human Rights Code, mainly because they bear the brunt of the criminal justice system's negative consequences. The prison population provides a snapshot: Indigenous and black people are grossly overrepresented, and the number of prisoners with addictions and mental health or intellectual disabilities has grown dramatically in recent years.

The impact of the criminal justice system is felt at an individual, familial and community level, and can have intergenerational impacts on well-being. We have long called for bold steps to promote accountability and build trust with historically marginalized communities. While this legislation won't remedy injustices of the past, it does mark a significant step towards making our communities safer.

The bill is an opportunity to build trust because it recognizes and enshrines the charter and the Human Rights Code as essential to adequate and effective policing; clearly outlines the responsibilities of police services, boards and oversight agencies; and enhances accountability by creating strong oversight entities.

The bill also reflects recommendations from Justice Michael Tulloch's review, along with lessons learned from recent high-profile incidents involving serious injury and death. For example, it provides clear rules for what incidents fall within the jurisdiction of the SIU and when they must be reported; creates greater transparency in reporting from oversight agencies; provides for arm's-length investigation of police misconduct complaints; and allows an independent tribunal to oversee and impose meaningful disciplinary measures.

This bill provides a pathway to sustainable culture change through mandated training, demographic representation on boards, and the creation of community safety and well-being plans that address systemic discrimination.

Policing must reflect and respond to the unique issues that communities face. To do that, we need much more information than is available on what is happening on the ground. Bill 175 provides many avenues for collecting and acting on qualitative data, but quantitative data is required to compel meaningful change.

That's why the commission strongly urges the government to make the collection of human rights-based data mandatory for all police services and all police oversight agencies. Data will help identify where the problems lie to create targeted solutions.

Our current inquiry into racial profiling and racial discrimination by the Toronto Police Service shows how challenging collecting this data can be without government leadership. It is eight months into our inquiry, and we still lack clarity over whether the data we are requesting exists and whether it can be produced.

We call on the government, through this legislation, to require three main things:

First, that police services establish permanent data collection and retention systems to record human rights-based data on things like stops, use-of-force incidents, and interactions related to immigration status, and that the data be standardized, disaggregated, tabulated and publicly reported by each police service;

Second, that the government require police oversight agencies to collect human rights-based data as a foundation for public accountability; and

Third, to adopt the Ombudsman's recommendation that any use-of-force model and police training emphasize de-escalation.

In closing, Bill 175 is a once-in-a-generation moment to fundamentally shift the culture of policing in Ontario and create greater community trust in law enforcement.

The Chair (Mr. Shafiq Qaadri): Thank you for your opening remarks. We'll begin with the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation. I'm not sure; are you going to be submitting anything in writing to the committee?

Ms. Renu Mandhane: We have not submitted anything in writing. We were hoping that this could count as our submission. We have, in the past, publicly submitted submissions throughout.

Ms. Soo Wong: In terms of the commission's view on Bill 175, I just heard that in general you do support going forward on this piece of legislation in terms of police oversight and the whole issue of governance. I heard that you want us to strengthen, with amendment, the whole issue of data collection, if I heard that right. Am I correct?

Ms. Renu Mandhane: Yes. We are supportive of the legislation as it currently is before us, but we do think it could be strengthened through data collection. I know that the Anti-Racism Directorate is leading on that file, but, historically, what we've found with the Police Services Act is that it acts as an entire act. Often, if it's not in the Police Services Act, it's very hard to have it actually compiled and created.

Ms. Soo Wong: I think my colleague has a question.

The Chair (Mr. Shafiq Qaadri): Mr. Potts.

Mr. Arthur Potts: Thank you very much for your presentation. I wanted to follow up on the Anti-Racism Directorate. I've been working with Minister Coteau, and it's very clear that they intend to do a lot of data collection so that we can do qualitative and quantitative analysis and come back with policies across government. Do you think he is empowered within the Anti-Racism Directorate to get this information, or are you saying it has to be in the act?

Ms. Renu Mandhane: I'm saying that it would be great to do it through that, but those are regulations. Right now, under the Anti-Racism Act, the data collection provisions are regulatory.

What we're hoping to see is that they find themselves in the act because this isn't an act that's easily opened, whereas regulations, as we know, can be changed more easily. We want to see it in the act so that we don't have to come to this again in 10 years when the regs haven't been as effective.

1610

Mr. Arthur Potts: But you do see that there's an opportunity with the regulations within Bill 175 that we could get to data collection and share that information with the director?

Ms. Renu Mandhane: Yes.

Mr. Arthur Potts: Excellent. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Potts.

Mrs. Amrit Mangat: Chair, do you have time?

The Chair (Mr. Shafiq Qaadri): Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Ms. Mandhane. As you said, you're supportive of the legislation; right? If this proposed legislation is passed, how are the changes going to affect the workings of the Ontario Human Rights Commission? Can you shine some light on that?

Ms. Renu Mandhane: Yes. I think what we're really interested in is three main elements. First, that the Human Rights Code and the charter are woven throughout the legislation so it is very clear that those are constitutional and quasi-constitutional obligations. I think that's really important.

Secondly, the enhancement of accountability and oversight: This role for the inspector general is really

important in terms of addressing systemic discrimination. That's always been something that has been a bit of a—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Mangat. To the PC side: Ms. Scott.

Ms. Laurie Scott: Thank you very much for appearing here. There are a lot of questions that could be asked here. When you said "systemic discrimination," whether black or indigenous—we just heard about the fact that there are no numbers for female officers. Can you expand a little bit on why there is not any data? Are you confident that Bill 175—I heard you say you're not as confident that it's going to be in regulations. Can you just comment?

Ms. Renu Mandhane: Yes. Maybe I'll give you an idea of what we believe data can do. You've probably heard, from the black community, concerns about over-policing. I think what we want to see is data collected on the different kinds of interactions civilians have with police that may not result in charges; things like carding, traffic stops. But things like possession-of-drugs charges—we think that if you actually collected data and disaggregated that we'd have a better sense of what kinds of specific interactions are at issue so that you could start to go beyond training and actually talk about what kind of discretion may need to be limited in those very specific instances.

Ms. Laurie Scott: Okay. Do you believe that, in general, police forces are fair?

Ms. Renu Mandhane: Yes. I think that we don't have a crisis in policing, but at the same time the communities the commission is in touch with are deeply concerned about over-policing of certain communities—indigenous and black—and also about the impact that mental health illness is having on contact with law enforcement.

Ms. Laurie Scott: Switching to the other side of human rights, in the sense that police officers—there have been many deputations about the fact that they are going to feel discrimination when there's more power given to police chiefs, that they can actually fire police officers for acquiring, say, PTSD—I'll use that as an example—or some type of disability on the job. Can you comment on that?

Ms. Renu Mandhane: Yes, I can, and I will ask my colleague if he wants to add to that. I guess all I'd say is that within the act it does reference the requirements of the Human Rights Code. The Human Rights Code is quasi-constitutional, but there are defences within the act. The code requires reasonable accommodation to the point of undue hardship. What we think is that this looks like it recognizes that limit of undue hardship, but it really depends on how it's applied.

I did also hear about reprisal for bringing complaints forward. These are all things that are meant to be illegal under the Human Rights Code, but at the same time they're very difficult to enforce. I think that the bill does reference the code and the code having primacy, which is really what the mandate of the commission is: to ensure that the code has primacy.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. To the NDP side: Mr. Natyshak.

Mr. Taras Natyshak: Thanks so much for being here. I'll move closer to the mike so you can hear me. The collection of data for future reference in determining whether we are applying policing powers adequately and fairly: Does that requirement exist in any other jurisdictions? If so, what have been the effects of that data and segregating the data as you've suggested?

Ms. Renu Mandhane: My understanding is, it does exist in many US jurisdictions. Obviously it's not federal, but at a local policing level, different police forces have been collecting this data for some period of time, so there is precedent for it. There's also precedent in the UK. It has been used to isolate the types of interactions where there has been disparity.

Mr. Taras Natyshak: But nothing in Canada?

Ms. Renu Mandhane: Not yet. There have been small data collection projects that the commission undertook with the Ottawa Police Service, but nothing that's mandatory.

Mr. Taras Natyshak: It would seem to me that we see pieces of that data quite often in—

Ms. Renu Mandhane: The Toronto Star and others have analyzed it.

Mr. Taras Natyshak: Yes, but just not in a comprehensive, cumulative type of format that would allow us to find patterns.

Ms. Renu Mandhane: Yes. That's not currently possible.

Mr. Taras Natyshak: Who would be responsible for that collection?

Ms. Renu Mandhane: We believe that the police services and the oversight agencies should be responsible for collection and public distribution, consistent with open government. Of course, it would require organizations like the commission and community organizations to actually analyze that data to understand what it means in social context.

Mr. Taras Natyshak: Is it fair to say that they are already collecting that data?

Ms. Renu Mandhane: No—

Mr. Taras Natyshak: No? I mean, I'm just thinking simple arrest/charge, and there is a file.

Ms. Renu Mandhane: They collect that data. What they don't often collect is race and other markers of the identity of the individual. So when you're trying to do disparity analysis, it's difficult sometimes to piece together how it impacts code-protected groups.

Mr. Taras Natyshak: And you'd like to see that reflected through regulation in this bill?

Ms. Renu Mandhane: Through the legislation.

Mr. Taras Natyshak: Through the legislation.

Ms. Renu Mandhane: Yes.

Mr. Taras Natyshak: Have you pitched that idea to the appropriate ministry?

Ms. Renu Mandhane: We have consistently made that recommendation, both for this act but also through the Anti-Racism Act.

Mr. Taras Natyshak: And the response has been no?

Ms. Renu Mandhane: I don't think the response has been no. I think the response has been, "We're going to do it through the Anti-Racism Act and the regulations that come through that." It's just that policing tends to really—it needs to be in the Police Services Act for it to really get life. That's why I think it's really important to put it in this legislation.

Mr. Taras Natyshak: Thank you so much for being here.

Ms. Renu Mandhane: Thanks.

The Chair (Mr. Shafiq Qaadri): Thanks, Mr. Natyshak, and to you, Ms. Mandhane and Mr. Horner, for your deputation on behalf of the Ontario Human Rights Commission.

MR. TIM TROW

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Tim Trow. Please be seated. You've seen the drill. You have five minutes to make your opening address. Please begin now.

Mr. Tim Trow: Good afternoon and thank you very much for being here. My name is Tim Trow. I am retired from the Ministry of the Attorney General and I am a life-long volunteer with animals. I am here to ask you to recommend including the Ontario SPCA under the Safer Ontario Act.

The OSPCA employs inspectors and agents, each of whom, within the OSPCA mandate, "has and may exercise any of the powers of a police officer." The OSPCA does not merely inspect or monitor; it investigates and lays charges, including charges for Criminal Code indictable offences that can lead to prison. The OSPCA is a police service in all but name, and it belongs under the Safer Ontario Act.

In their independent review of the OSPCA, the Honourable Patrick LeSage and former veterinary college dean Dr. Alan Meek observed: "Although the OSPCA Act gave the OSPCA powers, some of which are akin to those of a police officer, no provision was included in the legislation to identify an agency responsible for overseeing the OSPCA in its execution of the legislative mandate. This has created the problematic situation of the OSPCA essentially being responsible to police itself."

The Honourable Michael Tulloch favoured impartial and independent operation of the policing oversight system. Please recommend including the OSPCA law enforcement within the system established by the Safer Ontario Act so that the same checks and balances will benefit us all.

Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Trow. We'll begin with the PC side: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Chair, and thank you, Mr. Trow.

It's a pretty singular issue there, and not one that we've been asked to this point. I guess my question is

this: They're not considered to be sworn police officers, agents of the OSPCA, correct?

Mr. Tim Trow: I don't know. They certainly have all the indicia that I know of, of being a police officer. Their activities are as highly difficult and important as any police officer's. I think that the Meek LeSage report pretty well felt that there's a serious lack of oversight for this organization.

1620

Mr. John Yakabuski: I'm not questioning that.

Mr. Tim Trow: Yes, I understand.

Mr. John Yakabuski: When we start calling them, do they carry sidearms? I'm not aware that they do.

Mr. Tim Trow: They do if, say, there are animals hurt on the side of the road. They do have firearms.

I think the issue is that the OSPCA act is about 125 years old. I think that the terminology is simply archaic terminology. The reality is that they're a modern police force, and they should have oversight.

It's not niche, either. You're talking about an awful lot of people whose livelihood involves animals and whose recreation involves animals. They have no oversight availability.

Mr. John Yakabuski: There's not oversight on them themselves, you mean?

Mr. Tim Trow: No.

Mr. John Yakabuski: Okay. I just presumed that they're answerable to somebody. They don't work without a rule book.

Mr. Tim Trow: They do.

Mr. John Yakabuski: They do?

Mr. Tim Trow: Justice LeSage said it: They police themselves.

Mr. John Yakabuski: It's not something that I'm overly familiar with; I have to be honest with you. You're throwing something out there that we haven't had a chance to digest.

Mr. Tim Trow: Well, I apologize for that. I just thought it was important—

Mr. John Yakabuski: And because it's not in the bill as it is, we haven't had a chance to even consider it. But I don't think it's an issue to bring this into the bill. I think that this may be something that needs to be looked at separately, if there's a concern that there is not enough oversight on officials of the OSPCA, within their mandate of enforcing laws regarding animal protection. Those are the only laws that they can enforce; correct? They can't pull me over for speeding or anything like that. They're only dealing with the protection of animals; correct?

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. To Mr. Natyshak of the NDP.

Mr. Taras Natyshak: Thank you, Mr. Trow. Your presentation is quite specific and concise and doesn't leave too much for me to consider. It's either put this in the auspices of the bill, or don't.

Mr. Tim Trow: Exactly.

Mr. Taras Natyshak: With that, I will take this back to people smarter than I, which is a lot more people, and

have them consider what the implications would be and how that would happen.

I tend to agree with my colleague Mr. Yakabuski that this might require its own stand-alone legislative initiative. If that's something that is required down the road, then I'm happy to take a look at it.

Mr. Tim Trow: Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side: Mrs. Sandals.

Mrs. Liz Sandals: Thank you very much. It's very clear, what you're asking for. In most cases that we've been talking about, we've been talking about the conditions under which some of the oversight would click in, in terms of police officers—should we explicitly include sexual assault; or there's the death of a person when they're interacting with the police—things like this.

I'm trying to figure out how the OSPCA officers and investigators would fit into that sort of a description of when you attract the oversight.

Mr. Tim Trow: Perhaps I could just give an example. Both a police services person and an OSPCA person can actually be investigating the exact same thing. There's even a provision in the OSPCA act where they can switch responsibilities back and forth. So you could be a citizen of Ontario, and if you are fortunate enough to run into an officer who is a police services officer, you would have this amazing new oversight. If you happen to run into an OSPCA agent, you wouldn't have anything.

Mrs. Liz Sandals: But Bill 175, in terms of the oversight body—if something is going to be investigated by the SIU, it's pretty explicit in terms of what the police officer would do to attract an investigation by the SIU. I'm trying to imagine what an SPCA officer could do that would be parallel or that would fall into that same category of serious crime that would attract investigation by the SIU.

Mr. Tim Trow: Which is sort of the same thing Mr. Yakabuski said. I think it's really the civilian oversight that is needed, because you're right: There aren't a lot of firearms in use. But there's no civilian oversight.

Mrs. Liz Sandals: So it's not the SIU accountability part of it that you're suggesting. Are you suggesting there should be some sort of provincial civilian board that looks over the SPCA?

Mr. Tim Trow: The compliance agency and the compliance director: I think that would solve the issue. A proper civilian oversight—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals, and thanks to you, Mr. Trow, for your deputization and presence.

Mr. Tim Trow: Thank you very much.

The Chair (Mr. Shafiq Qaadri): I just want—
Interruption.

Ms. Soo Wong: Just before we do, Mr. Chair, the bell is ringing. I think we're ahead of schedule. This is triggered by—

The Chair (Mr. Shafiq Qaadri): Thank you. Just give me a moment. Is Ms. Wong of Chinese and South-east Asian Legal Clinic available—

Interjection.

The Chair (Mr. Shafiq Qaadri): —Mr. Wong, Vince Wong, and/or Jo-Ellen Worden? Okay. They are both scheduled at 5 p.m.

I think Ms. Wong is well advised. We will recess till 5 p.m.

Ms. Laurie Scott: Wait, wait. What about Queen's University?

The Chair (Mr. Shafiq Qaadri): Pardon me?

Ms. Laurie Scott: At 5:15 is Queen's University.

The Chair (Mr. Shafiq Qaadri): Are they here?

Mr. John Yakabuski: Is Queen's University here?

The Chair (Mr. Shafiq Qaadri): No, it's Mr. Worden. I just asked.

Ms. Soo Wong: Ms. Worden.

The Chair (Mr. Shafiq Qaadri): Okay, there are two people. One is Mr. Wong at 5 p.m. The second person is Ms. Worden at 5:15. Neither is here.

Ms. Soo Wong: How about the other witness who didn't show up, the one at 3:30, the one from Ryerson University?

The Chair (Mr. Shafiq Qaadri): As the Chair—

Mr. John Yakabuski: Excuse me, Chair, but I don't think we should recess till 5 o'clock. There's a good chance they're going to show up earlier than that. Nobody is going to come here at the last—

Mrs. Liz Sandals: Yes, but we have to recess.

The Chair (Mr. Shafiq Qaadri): Actually, no, he's correct. We could come back at, let's say, 5:40, execute for 15 minutes and then still make that vote.

Mrs. Amrit Mangat: At 5:40?

The Chair (Mr. Shafiq Qaadri): Sorry, 4:40.

Mr. John Yakabuski: Ten minutes, sure. Because if they show up, why don't we keep going? We still have time to deal with one deputant and then go for the vote.

Mrs. Liz Sandals: Hey, if you're going to ring bells again, we're going to be here until 6.

Mr. John Yakabuski: I don't know. I'm not there.

The Chair (Mr. Shafiq Qaadri): We will.

Interjections.

The Chair (Mr. Shafiq Qaadri): All right. Colleagues, a 10-minute recess. Please fight it out in the hallways.

The committee recessed from 1628 to 1640.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. In the interest of time, we reconvened at 4:40 on the dot.

CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC

The Chair (Mr. Shafiq Qaadri): We'll have Mr. Wong of the Chinese and Southeast Asian Legal Clinic present his opening remarks for five minutes, at which point we'll break for the vote. Mr. Wong, your five minutes begins now.

Mr. Vince Wong: Thank you very much to the committee for having me here. I understand you have a vote very quickly, so I'll be brief and jump right to it.

My name is Vince Wong. I'm a staff lawyer at the Chinese and Southeast Asian legal clinic. Our clinic is a not-for-profit community legal clinic that represents low-income, non-English-speaking Ontarians in the Chinese, Vietnamese, Laotian and Cambodian communities.

In general, our clinic welcomes the introduction of Bill 175. It has got a lot of really helpful reforms, and it's a bill that is much needed in terms of reforming police oversight and adopting many of the recommendations of Justice Tulloch in his report.

We have eight recommendations. They're all spelled out in the materials that I've given you, and they're all summarized at the very last page in an appendix. Six of the eight recommendations deal with the SIU, the seventh deals with the previous OIPRD, now the complaints agency, and the final one deals with the discipline tribunal.

The first, and probably the most important—and I understand you've heard this from some others—is section 18 of the Policing Oversight Act, which is basically an investigation of related persons. The way it's framed as currently spoken to, it basically says that any other person can be wrapped up in that investigation, which includes, of course, civilian witnesses. Now, to be an effective body, the SIU relies on the co-operation of civilian witnesses, and a confidentiality assurance cannot be given with the way that section 18 is written right now. It would cripple SIU investigations and create a chilling effect on witness co-operation.

A second recommendation that's related is the access to SIU files, which can be found in subsection 19(5) of the act. It requires the SIU to hand over its files to police services if the SIU director refers a potential criminal offence to police services for investigation. Again, it has a chilling effect of discouraging civilian witnesses from co-operating with the SIU if they suspect that their statements and information could be passed on to the police without consent. I urge you to revisit the wording of subsection 19(5).

The third recommendation is the duty to comply. The duty to comply is obviously absolutely critical to the function of the SIU. If officers don't comply with its orders, then there is really nothing that it can do. It's legislated in section 33, but Bill 175 ends up diluting this duty by adding a qualifier: "unless it is impracticable to do so." The term is not defined anywhere in the legislation, "impracticable." It's a vague and broad qualifier that is neither necessary nor desirable. We think that it should be removed.

The fourth is with respect to discretion to conduct investigations. Previously, the SIU retained the discretion to conduct investigations except when ordered to do so by the Attorney General. Now, section 17 of the Policing Oversight Act unduly fetters that discretion by allowing police chiefs, their designated authorities and others to mandate that SIU conduct and investigation. This effectively gives police powers of direction over the body that is supposed to oversee it, which would be fatal to maintaining public trust in the SIU. We recommend that that be amended.

The fifth one that, again, you've heard from several other parties is—

The Chair (Mr. Shafiq Qaadri): One minute.

Mr. Vince Wong: Sorry, what was that?

The Chair (Mr. Shafiq Qaadri): One minute.

Mr. Vince Wong:—sexual assault as a stand-alone ground in section 16. We also recommend that it be added.

Number six is off-duty officers, which is a critical one. Before, the SIU jurisdiction did not differentiate between on-duty and off-duty officers. Off-duty officers, in certain cases where there were, for instance, sexual assault allegations, were under the SIU's jurisdiction. With the current limiting of the SIU power to investigate off-duty officers in section 16, that may not be able to be done.

The final recommendation I'll point out before I'm out of time is with respect to the Ontario Policing Complaints Agency. Right now, because of budgetary constraints, this agency has the power to refer complaints to—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Wong, for your introductory remarks.

We will be recessed until we return from the vote. I cannot tell you which way to vote, but I can invite you to vote. Then we'll reconvene, with Mr. Natyshak beginning the questioning. The committee is in recess.

The committee recessed from 1645 to 1657.

The Chair (Mr. Shafiq Qaadri): Mr. Natyshak: three minutes.

Mr. Taras Natyshak: Thank you so much, Mr. Wong, for being here. I'm giving you the rest of my three minutes because I know you have lots more to say. If you can elaborate on your fifth point, on sexual assault—was it number five or six? I'd just like to know a little bit more about that. But continue on with your train of thought and your presentation.

Mr. Vince Wong: I appreciate it very much. If I can elaborate a little bit more on recommendation 5, which is adding sexual assault as a stand-alone ground: Again, this is something that was specifically recommended by Justice Tulloch in his policing overview report. It's in recommendation 5.7(d). It's specifically there to target and specifically say that it is within the ambit of the SIU's review jurisdiction to review cases of sexual assault. I really feel that this is a non-partisan issue. I think all three parties can agree that, especially in cases where there is potential for a large imbalance of power, this is something that is set out in the legislation. People can be accountable to it. They know it's there, and they know that the police forces and the police oversight bodies are all taking that very, very seriously. So that's recommendation 5.

I left off a little bit on recommendation 7, which is with respect to the complaint agency. I think it's very, very important and I don't think it has been brought up yet. In Justice Tulloch's recommendations, from 7.20 to 7.22, it contemplates that the complaints agency should be properly resourced, and eventually, within five years, investigate and take on all public police complaints because that's really the best place institutionally for it.

However, the bill still contemplates, in section 81 of the oversight act, that the complaints director will refer complaints back to chiefs of police for investigation, or it has that power. It's understandable, pragmatically, why this might be so, because it's not properly resourced right now. But Tulloch has said five years; that's the interim period we're looking for. The bill should therefore reflect that recommendation by implementing a sunset clause on section 81. Section 81 is the power of the complaints director to refer to the chief of police to investigate this public complaint. I think a sunset clause of five years would be reasonable. After that five years, that's when the government can take a look at it again and see whether we're at the institutional capacity to take on those things.

The final one, a recommendation—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak. To the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation to the committee and these eight recommendations.

Specifically dealing with the investigation, I want to go through one of your recommendations: the concerns about the witness coming forward before the investigation. Can you elaborate a little bit more about that, and about giving more discretionary authority to the SIU in certain cases? Can you elaborate to the committee about those two pieces?

Mr. Vince Wong: Sure. I think the civilian witness issue was something that was not fully contemplated by the drafters of the legislation; that was kind of an unintended consequence. For section 18, on an investigation-related person, the section applies to any other person the SIU may cause the investigation—so basically, may have also resulted from the conduct of any other person.

We know that civilian witnesses are an absolutely crucial part of the functioning of the SIU's mandate. Either that has got to be specifically spelled out, that they're not captured within this ambit so that assurances can be properly provided to people who are willing to come forward in a very scary situation—a lot has to be done to look at that—or consider removing that. That's what I would say on civilian witnesses.

Your second question is with respect to—

Ms. Soo Wong: The discretionary authority of the SIU.

Mr. Vince Wong: That is section 17 of the Policing Oversight Act. I think section 17 is one of those parts of the bill that needs to be completely rewritten. What it does right now is that it's saying that the SIU has the duty to start an investigation if it is notified by certain authorities, including chiefs of police and their designated authorities. That power was never in the pre-Bill-175 statutory regime.

What it should be amended to is to reflect recommendation 5.3 in Tulloch's report. Specifically, the SIU should retain the discretion to start an investigation when it is in the public interest. When you're thinking about what is in the public-interest test, that's when being

notified by a chief of police, being referred it, is a very relevant factor, and it should be spelled out in the legislation. Luckily, Justice Tulloch has done all of the legwork on that, so I really feel like that should be reflected.

Ms. Soo Wong: Thank you very much.

The Chair (Mr. Shafiq Qaadri): To the PC side: Mr. Yakabuski.

Mr. John Yakabuski: Thank you, Mr. Wong, for joining us today. I've got a couple of questions because I want to be clear. Your recommendation number 5, with respect to sexual assault and misconduct as a stand-alone ground: It's not in the bill. How would that be dealt with within the bill today? How would accusations or allegations of sexual assault be dealt with in the bill today, if passed?

Mr. Vince Wong: Basically, what we're asking for is a specific amendment. Right now, there are three grounds; it's A, B, C—

Mr. John Yakabuski: How would they be dealt with if that's not changed?

Mr. Vince Wong: Currently, sexual assault is kind of fitted into the current legislative regime, which is very similar right now in the Police Services Act. It's similar in terms of the grounds that can start an investigation.

But going back to our community, and going back especially to the ethno-linguistic legal clinics that we work with in coalition, we found that it comes up very frequently, situations of at least alleged sexual assaults, that it really deserves its own provision.

Mr. John Yakabuski: But they are being dealt with; correct?

Mr. Vince Wong: There are current cases where the SIU is investigating with respect to alleged sexual assaults allegedly committed by police officers, yes. This is true.

Mr. John Yakabuski: We are not ignoring them, are we, under the bill the way it exists?

Mr. Vince Wong: No, I don't think it's fair to say that the way that the phrasing currently exists, the SIU is ignoring them. But I do feel—

Mr. John Yakabuski: Because of the prevalence, you want a stand-alone.

Mr. Vince Wong: Absolutely. Yes.

Mr. John Yakabuski: I understand that.

I have one question on witnesses. You're saying that civilian witnesses in an SIU case should not be identified, or they should have confidentiality. If an officer is involved, he or she will have a lawyer representing them. Would that be taking away their right to know who is testifying against them?

Mr. Vince Wong: There are witness protection provisions in the current way that the SIU is doing it. What I'm specifically spelling out is that the way it's currently written, a civilian witness may be subject to prosecution by the SIU or by related—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski, and thanks to you, Mr. Wong, for your

deputation on behalf of the Chinese and Southeast Asian Legal Clinic.

Mr. Vince Wong: Thank you.

QUEEN'S UNIVERSITY FACULTY OF LAW

The Chair (Mr. Shafiq Qaadri): I now invite our final presenter of the day, Ms. Worden of Queen's University Faculty of Law, to please come forward. Please be seated. Your five minutes begin now.

Dr. Jo-Ellen Worden: Thank you. Ladies and gentlemen of the Standing Committee on Justice Policy, honourable ministers, members of the opposition, third-party members and other honoured guests and speakers, I wish to take a moment to stand and acknowledge Canada's indigenous people upon whose traditional lands this Legislature stands.

I wish to thank Minister Marie-France Lalonde, the Minister of Community Safety and Correctional Services, for undertaking the sometimes daunting tasks associated with her portfolio and for introducing this vital bill with a view toward enhancing the safety of all Ontarians.

I also wish to acknowledge and thank Dean William Flanagan, Associate Dean Joshua Karton and a very special note of thanks to Professor Nicholas Bala, my thesis supervisor in the faculty of law at Queen's University, for their incredible support and encouragement as I have been engaged in conducting one of this province's first public empirical studies that examines systemic responses to law-enforcement-officer-involved domestic violence in the province of Ontario.

I would be remiss if I did not also acknowledge the countless unheard voices of the spouses, intimate partners, children and colleague-victims of law-enforcement-officer-involved domestic and sexual violence, also known as police-perpetrated domestic and sexual violence, in this country.

For those of you members of the Standing Committee on Justice Policy who may be unfamiliar with the term "police-perpetrated domestic violence," it is a syndrome referred to in a document sent to me by the Ministry of the Attorney General's office in 2006 that describes the domestic and sexual violence that occurs at the hands of men and women who have been trained in the tactical maneuvers of intimidation, interrogation, manipulation, deception, power and control. It is a category of violence that has now been expanded to include not only police officers as violent offenders but also those military officers who choose to engage in intimate partner and other forms of family violence.

Over a decade ago, on January 31, 2007, I sat in this very spot before another Standing Committee on Justice Policy and beseeched the committee, as it undertook to amend Ontario's Police Services Act following the LeSage report, to seriously consider including amendments to the Police Services Act which provided public acknowledgement of police family violence and a transparent, legislated legal instrument for safe and expeditious recourse for OVID—which is officer-involved domestic violence—victims.

1710

Almost 12 years after my initial deputation, rather than being viewed as the vulnerable victims they are, often the children, spouses and partners of abusive law enforcement personnel who disclose acts of officer-involved domestic and sexual violence are seen through a negative lens; subjected to extreme forms of intimidation, stigmatization, torture, threats and violence; are deemed personae non gratae with the involved police service; and possess rights that are essentially disavowed.

Victims cannot disclose without risk of lethal outcomes, and in Ontario have been forced to form secret support groups and go into hiding. There is scant published Canadian research pertaining to the incidence prevalence and impact of officer-involved domestic violence in Canada. Canadian systemic responses to officer-involved domestic violence remain in their infancy.

Honourable members, improving the lives of OIVD victims requires addressing the continuum of constraints and systemic insufficiencies that obstruct effective incident management. Ladies and gentlemen, police family violence is not a new phenomenon.

Members of the Standing Committee on Justice Policy, although Bill 175 goes a long way in addressing the many inadequacies of the current acts that govern policing and police oversight in the province of Ontario, it does little to acknowledge, transparently and publicly, the harassment, discrimination, exclusion, alienation and gender-based violence countless female police officers and family members and children of violent police officers endure, voiceless, on a daily basis.

There are portions of this act that concern me greatly. One of the foremost portions of the act that concern me is the provision that members of police associations may not access the provisions under the act to file complaints—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Worden. We begin the questioning with the government side: Ms. Wong.

Ms. Soo Wong: Thank you very much for your presentation, Dr. Worden. I believe, in terms of your research, you raise some concerns about the whole issue of sexual violence and victims and what have you. Now, the previous witness before this committee, just before your presentation—and I want to get clarification from his organization; I believe it's the Chinese and Southeast Asian Legal Clinic—asked the committee to consider one of their recommendations, to add dealing with sexual assault misconduct as a stand-alone. Would you recommend that?

Dr. Jo-Ellen Worden: Absolutely, 100%.

Ms. Soo Wong: Okay. That will address some of your concerns that you just raised. Am I correct?

Dr. Jo-Ellen Worden: Yes, that will address concerns on behalf of sexual assault victims within the families of abusive police officers, but also there needs to be a mechanism where female officers—or male; I need to be gender-neutral—who are sexually assaulted by other officers, as well, to provide a mechanism by which they

can access separate and very distinct, very specific provisions.

Ms. Soo Wong: You mentioned to us, in your role as a researcher, the whole issue of making sure that this bill—because the bill focuses specifically on dealing with oversight. Do you believe this proposed legislation will improve oversight and the whole issue about transparency? Because we heard not just about transparency but we also heard concerns raised about the whole issue of governance. In your research, do you focus on those, particularly dealing with governance and oversight?

Dr. Jo-Ellen Worden: I do. I'm happy to provide a written copy of my deputation, if that's possible. I do cover some of that. I think that this bill falls short in terms of transparency and a mechanism to address the sexual and domestic violence that occurs within law enforcement families. I feel that it falls short. I believe, also, that there needs to be a dedicated section and a specialized OIVD investigations unit within the new version, the new incarnation, of the OIPRD—

Ms. Soo Wong: Because I don't have a lot of time, I want to go back to the issue of sexual assault and the whole OIVD piece. Would it strengthen the legislation if we make sure that those officers deal with the criminal activity off-duty? We hear serious concerns raised when officers do illegal activities or domestic violence. If we add this piece of legislation that's being recommended by the previous witness, you want to make sure this also covers off-duty officers, right?

Dr. Jo-Ellen Worden: That is correct, because my current understanding of the SIU—and I've spoken with individuals from the SIU—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. We'll move to the PC side: Ms. Scott—Mr. Yakabuski, as you like.

Ms. Laurie Scott: Okay. I'll let you finish that, if you want.

Dr. Jo-Ellen Worden: Their hands are tied in investigating police officers who commit acts of sexual violence out of uniform, as it were, so in their personal and private lives. I have been advised that they have no jurisdiction or they have discretion, and they hesitate to not investigate the personal activities of police officers.

Ms. Laurie Scott: Because that's where my original thought—

Mr. John Yakabuski: They hesitate to investigate.

Dr. Jo-Ellen Worden: They don't want to; that is correct.

Mr. John Yakabuski: That's what you mean? You said they hesitate to not investigate.

Dr. Jo-Ellen Worden: They do not investigate; that's right.

Mr. John Yakabuski: I just wanted to clarify that.

Ms. Laurie Scott: But they do not investigate because they don't want to investigate. They're still bound by the laws also.

Dr. Jo-Ellen Worden: They have discretion, and my understanding from conversations with members of the

SIU is that I would be hard-pressed to find an SIU investigator who would investigate the personal sexual misconduct of a police officer in the province of Ontario.

Ms. Laurie Scott: That's a pretty startling statement. You have the stats, you've done the research, and that's what you're saying, that they—

Dr. Jo-Ellen Worden: That is correct, yes. I've interviewed members of the SIU, yes.

Ms. Laurie Scott: And they say that, the SIU themselves?

Dr. Jo-Ellen Worden: The individual that I interviewed, absolutely.

Ms. Laurie Scott: Wow. So there have been no cases to your knowledge? You've done the research. I'm just kind of trying to clarify what you're saying. In your research, you've never found where a police officer has been charged for sexual assault on a family member?

Dr. Jo-Ellen Worden: Oh, no, I wouldn't say that, no. In my conversations with a member of the SIU, he was explicit in advising that the SIU avoids—cannot investigate matters of sexual assault and sexual misconduct of officers in their personal lives, so officers not in uniform.

This was a particular case. If the officer had sexually assaulted the individual in uniform, the SIU would be fine and open to investigate. But they have discretion not to, and they do not want to touch the personal lives of police officers with a 10-foot pole, to be—

Mrs. Liz Sandals: When it's the wife.

Dr. Jo-Ellen Worden: Pardon me?

Mrs. Liz Sandals: When it's the wife or their partner.

Dr. Jo-Ellen Worden: Yes, a partner or a child even.

Ms. Laurie Scott: Okay.

Yes, go ahead.

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. John Yakabuski: Yes, that astounds me. So the SIU would only investigate if it happened while on duty?

Dr. Jo-Ellen Worden: Well, again—

Mr. John Yakabuski: So—if it was a partner assault while the officer was on duty, they would investigate it, but not if they're off-duty?

Dr. Jo-Ellen Worden: Yes. It was a very disturbing conversation. My conversation with the individual from the SIU was that if the officer had sexually assaulted the victim while in uniform, they had an open door to investigate. But because—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. To the NDP side: Mr. Natyshak.

Mr. Taras Natyshak: Continue on your train of thought. "Because"—

Dr. Jo-Ellen Worden: But because the sexual assault occurred while the officer was "off duty" and not in uniform—and by the way, this particular officer was a detective, so he was never in uniform at that point in his career. But because the particular sexual assault occurred—and it was multiple sexual assaults, and Dr. Qaadri as well has been aware of this disclosure—the

SIU would not investigate. They exercised their discretion to leave it alone.

Mr. Taras Natyshak: Okay.

Dr. Jo-Ellen Worden: Oh, sorry.

Mr. Taras Natyshak: Yes, it's up to me now. You have a news clipping that I think you want to reference.

Dr. Jo-Ellen Worden: Oh. You know what? Yes, I do. Basically, it's an article written by Elizabeth Renzetti, who made the comment, "Women killed by their spouses are not casualties in someone else's story."

I wanted to mention this, that the victims of officer-involved domestic violence—the colleague officers, the intimate partners, the spouses—are no longer willing to be the collateral damage and the casualties in some police officer's tragic story of PTSD. That's not their responsibility. I wanted to assert that I'm of the view that the province of Ontario has failed police officer families.

I absolutely believe in undergirding and supporting officers who suffer from post-traumatic stress disorder. I have seen the best of humanity in many officers I've served with on Canada's DART teams during disaster situations—I'm a member of one of Canada's medical DART teams—but I've also seen the worst of humanity in police officers beating their spouses, their children and sexually assaulting their colleague officers.

That was just my comment, that their stories of post-traumatic stress disorder are terribly unfortunate. I believe that we need to have resources to support them, but the victims are no longer willing to be casualties in those tragic stories.

Mr. Taras Natyshak: Through your study, how prevalent is OI DV?

Dr. Jo-Ellen Worden: In the research that I have thus far—and the study is not complete, so the research that I have engaged in to this point—initial findings have indicated that the prevalence of domestic violence in law enforcement families is two to three times the national average. So it's two to three times more likely that domestic violence occurs in police families than it does in non-police families.

Mr. Taras Natyshak: Police associations have expressed concern about the use of or accessing PTSD treatment, given the potential risks to their employment under the clauses within Bill 175. They're saying that because—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Natyshak, and thanks to you, Ms. Worden, for your deputation on behalf of Queen's University.

The written submission deadline is in 39 minutes. Monday, March 5, at 12 noon, is the deadline for amendments.

This committee will reconvene in committee room 1 on Tuesday, March 6, at 9 a.m. for clause-by-clause consideration.

I commend all members of the committee for their endurance and patience.

The committee is now adjourned.

The committee adjourned at 1721.

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